

Application Site Address	11 Alta Vista Road Paignton TQ4 6DB
Proposal	Demolition of existing dwelling, garage and outbuildings and construction of ten dwellings plus associated access, parking, infrastructure, landscaping and associated works. (Part-retrospective).
Application Number	P/2025/0253
Applicant	MDP Development South West Ltd
Agent	Bell Cornwell LLP
Date Application Valid	21.05.2025
Decision Due date	20.08.2025
Extension of Time Date	19.09.2025
Recommendation	Approval subject to: 1. Completion of a unilateral undertaking. 2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency. 3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major Development.
Planning Case Officer	Emily Elliott

## **Location Plan**



## **Site Details**

The site contains a large two storey, detached residential dwelling with a render and tile hung appearance with a mixture of aluminium and uPVC windows and doors. The application site is surrounded by residential uses. The site area is approximately 0.2 hectares. The site lies to the eastern side of Alta Vista Road, and the site levels are relatively flat. The site is adjacent to Roundham and Paignton Harbour Conservation Area.

Works have commenced in accordance with the extant planning permission (refs: P/2019/0893 and P/2022/1090), by means of the new access from Alta Vista Road has been implemented, the former swimming pool has been removed, and excavation has taken place to the rear of the site.

The site forms part of the built-up area is within the Paignton Strategic Delivery Area but is not otherwise subject to any designations within the Torbay Local Plan. The site is also located within Flood Zone 1 and the Torbay wide Critical Drainage Area.

## **Description of Development**

This is a full planning application for the demolition of the existing dwelling, garage and outbuildings at 11 Alta Vista Road and the construction of 10no. dwellings plus associated access, parking, infrastructure, landscaping and associated works. The application is part-retrospective.

The proposed development will also include the construction of 6no. 4-bedroom town house dwellings and 4no. 2-bedroom 'coach house' style dwellings. A new vehicular and pedestrian access point is proposed from Alta Vista Road, while the existing access from Roundham Gardens will be maintained.

### **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"); and
- The Adopted Paignton Neighbourhood Plan 2012-2030 ("The Neighbourhood Plan")

#### **Material Considerations**

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG);
- Published Standing Advice;
- Heritage setting, within a Conservation Area (Upton);
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990: Section 72; and
- 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/2024/0172: Formation of 6 town houses & 4 coach houses with associated access, parking and amenity. Pre-application decision issued 18/02/2025.
- CN/2024/0059: Discharge of Conditions relating to P/2019/0893. Condition: 4 - Construction Method Statement. Approved with legal agreement 11/09/2024.
- P/2022/1090: Reserved Matters application on P/2019/0893. Matters to be discharged: (i) landscaping (to include hard and soft landscaping, and means of enclosure). Approved 18/01/2023.
- CN/2022/0118: Discharge of Conditions relating to application P/2019/0893. Conditions: 02 - RM landscaping, 07 - Biodiversity Enhancement, 08 - Bicycle Storage, 13 - Electric Charging Point, 14 - Boundary Treatment. Approved 02/12/2022.
- P/2019/0893: Outline consent for the demolition of existing building and construction of 10 x residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved. Approved 15/07/2020
- P/2002/1060: Erection of 4 Bedroom Residential Property. Refused 03/10/2002.

- P/2001/1360: Redevelopment to Provide 10 Residential Apartments with Vehicular and Pedestrian Access (As Revised by Plans Received 4/2/02). Approved 11/04/2003.
- P/2000/0738: Renewal of Application Reference No.95/0859/Pa for Erection of Garage. Approved 29/06/2000.
- P/2000/0277: Redevelopment to Form 8 Self Contained Flats (In Outline). Approved 22/01/2001.
- P/1990/0719: Conversion of Previously Approved Three Bedroom Apartment Ref App. No. 89.2853 To Form 2 Two Bedroom Flats (Total 8 Units). Approved 30/05/1990.
- P/1989/2853: Conversion and Extension to Form Seven Apartments with Parking. Approved 03/04/1990.

### **Summary of Representations**

19 letters of objection have been received.

Note: Full responses are available to view on the public access system (<https://publicaccess.torbay.gov.uk/view/>).

Concerns include:

- Drainage
- Impact on local area
- Loss of light
- Noise
- Not in keeping with local area
- Overdevelopment
- Privacy/overlooking
- Traffic and access
- Trees and wildlife
- Impact on conservation area
- Design/scale/visual impact
- Parking
- Sets precedent
- Residential amenity

### **Summary of Consultation Responses**

#### **Devon and Cornwall Police Designing Out Crime (Comments dated 06/06/2025):**

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority the following is to inform the applicant:-

ADQ creates security requirements in relation to all new dwellings. All doors that provide entry into a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24.

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors and windows Accredited Product Search for Windows are not only tested to meet PAS 24 (2022) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

*Secured By Design is a free from charge police owned crime prevention initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places and more secure places.*

There is a concern that there is free access around plots 1 & 6 around the front to the rear of both properties. It would be recommended this is gated in the interest in preventing unauthorised access and preventing anti-social behaviour.

All external doors providing access to the stores must be lockable, it is recommended that the doors are also fitted with a self-closing and lockable mechanism to prevent them be inadvertently left insecure. The internal side of the door should also be fitted with a thumb turn twist or another type of emergency egress equipment.

It is assumed that the private garden area to the front of the townhouses (along Roundham Gardens) are proposed as a front garden area and the lower walls are to allow for the sea views. I do have a concern that the vegetation on top of the wall in front of the pathway providing exclusive access to the entrance of the town houses could provide an area with limited natural surveillance or concealment if allowed to become overgrown.

Where hedging is being utilised as a boundary treatment for dwellings, also must be robust enough to prevent and deter unauthorised access to the properties. It is also important that the plants being used for the hedging do not go through any drastic seasonal change which could undermine the security of the boundary. Given it can take some time for the hedging to grow and thicken to be an appropriate boundary treatment, it should be supported by a temporary solution, such as wooden fencing for example.

**Torbay Council's Senior Environmental Health Officer (response dated 05/06/2025):**

I would confirm that I have no objections subject to the inclusion of the following condition should this application be approved:

Construction/Demolition Management Plan

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

- Procedures for maintaining good neighbour relations including complaint management. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Waste management. (note – the burning of building/demolition waste is not an acceptable means of disposal).
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:  
08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

**Torbay Council's Principal Policy & Project Planner (response dated 01/07/2025):**

I note that the site has a long planning history, including approval P/2019/0893 for demolition of the existing building and erection of 10 flats. Permissions for conversion/flatted development going back to at least 1990 (P/1989/2853). On that basis the principle of redevelopment has been established. It is in any event a sustainably located brownfield site and scores well against the criteria in Policy H1 of the Local Plan. The 2024 NPPF has increased the importance of boosting housing supply and developing brownfield urban sites.

The most important strategic planning consideration remains to maximise the number of dwellings achieved and to ensure a development that is built-out in the next five years rather than sitting undeveloped. The current proposal achieves 10 dwellings, which is the same number as the approved flatted scheme. Houses are likely to be more marketable than flats. It appears to me that the current proposed scheme is an improvement on the previously approved flatted scheme, and houses will be more marketable than apartments.

As set out in my pre-application comments, the site may be capable of achieving more than 10 dwellings. The terrace town houses are 167 sq. m gross internal floor area, which is quite substantial. The site area appears to be about 0.19ha so 10 dwellings is about 52 dwellings per hectare, which is a reasonable density. The Design and Access Statement indicates that densities are consistent with the surrounding area, however the area is relatively low density. There may be opportunities to increase the height of the building, or increase the number of terrace houses. However, I do note that neighbour amenity may prevent this. The impact on the adjacent Roundham and Paignton Harbour Conservation Areas will also need to be taken into account; although the building is not within the conservation area.

The proposal achieves a significant increase in density of the site, and there is no policy in the Local or Neighbourhood Plans which imposes a minimum density. Similarly, the proposal is below the Local Plan target for affordable housing (15 dwellings), and it is not clear whether a scheme of 15+ dwellings could be achieved. On that basis I do not consider that there are grounds to argue that the proposal is an underdevelopment, and I welcome the proposal that achieves good use of an urban brownfield site.

The site is within CIL Charging Zone 2 i.e. chargeable at £70 per square metre, and I note that a form has been submitted in relation to this (stating 1146 sq. m net additional floorspace). On that basis, wider sustainable development S106 contributions would not be sought. However, site deliverability matters such as Berry Head recreation contributions would still be required.

On the basis of the above I support the application.

**Torbay Council's Principal Historic Environment Officer (response dated 25/06/2025):**

Impacts on Heritage assets

The site is adjacent to the Roundham and Paignton Harbour Conservation Area which can be found to the west of the site. The submitted heritage statement describes the important characteristics of the conservation area and the contribution the existing site and its environs makes to this character. The document goes on to quantify the impact that the proposed development would have on the nearby conservation area. I would agree with the conclusions of the heritage statement and would advise that the proposed development would preserve the character and appearance of the Roundham and Paignton Conservation Area and would have a neutral impact on its significance as a designated heritage asset.

Design

The site is in a visually prominent, highly elevated location, and is visible from a number of public vantage points. Roundham Gardens is characterised by large, detached, two storey dwellings, whilst on the opposing (western) side of Alta Vista Road in the Roundham and Paignton Harbour Conservation Area is a three to four storey apartment block. There is an extant planning permission for the demolition of the existing building and the erection of a block of 10 residential flats. The general design approach appears to be acceptable for this location and would be considered a betterment to the extant planning permission.

External materials will be key in the successful delivery of the proposed development, therefore, should the application be approved it is recommended that all external materials be controlled through a suitably worded condition, and this should include the need for physical samples/sample panels to be assessed on-site.

**Torbay Council's Climate Strategy & Project Officer (response dated 05/06/2025):**

Given permission to demolish the current building has already been approved, my comments relate only to the sustainable and low carbon approach proposed.

The applicant has submitted an Energy and Sustainability Statement and Sustainability Checklist. The contents of both broadly meet Policy SS14 and ES1 of the Torbay Local Plan and Policy PNP1(f) of the Paignton Neighbourhood Plan.

It is welcomed that the applicant is proposing a range measures/approaches that will result in an estimated 63% reduction in regulated carbon emissions (over Building Regulations Part L 2021), and including:

- Fabric first approach
- Installation of Air Source Heat Pumps (estimated to provide 53% of the site's total energy demand) and Solar PV
- EV charging points

- Water saving measures
- Overheating assessment to follow at the detailed design stage

I therefore propose the following conditions:

#### Energy and Sustainability

1)The development hereby approved shall incorporate the energy efficiency measures, renewable energy, sustainable design principles, water conservation and climate change adaptation measures into the design and construction of the development in full accordance with the energy and sustainability statement by AES Sustainability Consultants Ltd dated April 2025 prior to occupation.

2)As proposed by the applicant, a 63% reduction in carbon dioxide emissions (beyond Part L 2021 Building Regulations) and in line with the energy hierarchy shall also be achieved, unless agreed in writing by the Local Planning Authority.

Reason: To ensure the development incorporates measures to minimise the effects of and can adapt to a changing climate and to meet Policy SS14 and ES1 of the Torbay Local Plan and Policy PNP1(f) of the Paignton Neighbourhood Plan.

#### Renewable energy

1)The development hereby approved shall incorporate the renewable energy measures outlined in the energy and sustainability statement by AES Sustainability Consultants Ltd into the design and construction of the development to ensure that at least 20% of the site's total energy demand is met through renewable energy sources

2)Prior to occupation, the following information shall be provided: - Evidence of the PV and ASHP systems as installed including exact location, technical specification and projected annual energy yield (kWh/year) e.g. a copy of the MCS installer's certificate

3)A calculation showing that the projected annual yield of the installed system is sufficient to meet at least 20% of the site's total energy demand.

Reason: To ensure the development contributes to minimising the effects of and can adapt to a changing climate and meets Policy ES1 of the Torbay Local Plan and Policy PNP1(f) of the Paignton Neighbourhood Plan.

#### **SWISCo's Senior Tree Officer (response dated 01/07/2025):**

I have reviewed the soft landscape proposals, but due to the density of the proposed development there is not scope for meaningful structural tree planting. The proposed hedges required for plot subdivision and as boundary treatments are appropriate for the proposed context.

If planning permission is granted, then the proposed soft landscape works are acceptable in terms of the proposed layout.

#### **South West Water (response dated 27.06.2025):**

##### Asset Protection

Please find enclosed a plan showing the approximate location of a public 1,675mm sewer in the vicinity. Please note that no development will be permitted within 5 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 5-metre easement, the sewer will need to be diverted at the expense of the applicant.

Please click here to view the table of distances of buildings/structures from a public sewer. Further information regarding the options to divert a public sewer can be found on our website via the link below:

<https://www.southwestwater.co.uk/building-and-development/services/sewer-servicesconnections/diversion-of-public-sewers>

### Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

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

For Highway run off please contact the Highway Authority to agree disposal method.

### Clean Potable Water

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

### Foul Sewerage Services

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

[www.southwestwater.co.uk/building-and-development/services/pre-development-services](http://www.southwestwater.co.uk/building-and-development/services/pre-development-services)

**Torbay Council's Drainage Engineer (updated response dated 19/08/2025):**

I have discussed with my colleague, and we could ask for further infiltration testing in the right location and depth, but due to site constraints and likely ground conditions, on this occasion we would accept the controlled discharge off site. You can use the standard advice for this.

**Torbay Council's Drainage Engineer (response dated 23/06/2025):**

The development is located in Flood Zone 1.

As Torbay is classified as a critical drainage area the developer has submitted a site specific flood risk assessment (FRA) with his planning application.

Infiltration was tested but ruled out due to poor infiltration rates and insufficient space. However, the trial pit locations were located outside of the green zone (SK001) and space available for soakaways. The infiltration test results do not directly represent the soil conditions within the actual proposed soakaway area.

Torbay Council require urban creep to be applied to all impermeable surfaces.

Additional testing within the green zone would be advisable in order to confirm infiltration is truly unfeasible and to avoid overdesigning attenuation and / or allow a hybrid SuDS approach.

As Torbay is a Critical Drainage Area, enhanced surface water management including infiltration is required where possible.

The FRA includes a maintenance plan only for the attenuation crates (Section 6.3), but does not provide any maintenance details for the SuDS planters. These must have a defined maintenance regime to ensure long-term performance.

**SWISCo's Waste (Strategy & Performance) Team Manager (updated response dated 28/07/2025):**

In response to this consultation request, I note that Bi□a are named as the collector of recycling and waste for this development.

I would ask that this arrangement is kept in place for the life of the development.

In recognition of this arrangement, I will withdraw the request for waste management contributions.

**SWISCo's Waste (Strategy & Performance) Team Manager (original response dated 04/06/2025):**

I have no objection to this development.

The developer has shown detailed drawings for the storage of waste and recycling containers.

However, the residents will need to bring their waste and recycling containers to the nearest point on the adopted highway no later than 6am on the day of collection.

I have attached the guidance for developers for advice.

I would also like to request waste management contributions.

**WSP on behalf of the Highway Authority (updated response dated 26/08/2025):**

Vehicular Access

The new vehicular access will be off Alta Vista Road serving 9 units, whilst the existing remains to serve one unit only. The new access and internal layout must comply with the adoptable standards set out on Page 15 of the Torbay Highways Design Guide for New Developments, April 2025 irrespective of the Applicant confirming it will remain a Private Road.

The Highway Authority recommend a Condition be secured with any consent that requires detailed highway drawings to be submitted demonstrating that the Private Road accords with adoptable standards. An informative should also be added which states that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards.

The Adopted Highways Design Guide states the policy is the Highway should adopt roads serving over 5 dwellings. If highway adoption is unachievable as the Applicant proposes, via a Planning Condition secured to any Consent, *a Road Maintenance Plan for the Private Road should be provided pre-occupation including the arrangements for the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the access road and refuse collection, emergency vehicle and public access in perpetuity.*

The proposed Site Access layout drawing (DWG. 167-SK-P01) shows a 4.8-metre-wide access with a gradient of 1:20 (5%) leading towards the far end of the driveway which is considered acceptable. However, the access road must be constructed as a 'shared surface' in line with the adopted Highway Design Standards.

Detailed design of both site accesses including cross sections, dropped kerbs, the access radii, and visibility splay area of vehicles and pedestrians is required and should be agreed before works resume.

No drainage information at either site access is shown to demonstrate that no surface water run-off from the site will exit into the highway. This must be achieved.

There is no turning area for delivery / servicing vehicles to turn on site. Whilst tracking for a 7.5tonne HGV is provided, this assumes the driver will reverse in, no parked vehicles are opposite the access to cause an obstruction, and vehicles are not larger. None of these assumptions is guaranteed and an HGV's manoeuvring into or out of the Private Road could easily cause delay, disruption, or incidents upon the public highway involving the traveling public. However, the number of vehicles over and above this size will be limited and those that do need access will more than likely be accompanied by banksmen to assist with safety on the public highway.

### Refuse / Servicing / Emergency Access

The proposed site layout drawings (167-PA-P18 and P19) show refuse collection points for the coach houses in front of garages and for town houses in front of the parking areas. For Unit 6 bins will be collected by the access gate on Roundham Gardens. The Applicant states that a private contractor will be commissioned, however it should be confirmed whether this is for Plot 6 also, given it has direct access of the public highway.

More information is required on how the contractor will collect waste and recycling given Plots 5 and 10 are beyond the recommended distances for drag distance by either the occupier or the contractor. No tracking of a refuse vehicle, almost 4-metres longer than the 7.5tonne HGV, has been provided entering and exiting the Private Road. Drawings using the contractor's confirmed refuse and recycling vehicle should be provided assuming vehicles are parked along the western side of Alta Vista Road opposite the access during the manoeuvre.

A Planning Condition should be secured with any consent to require the site to be serviced by a Private Waste Contractor in perpetuity given the Council will not service the site which is not in accordance with the Torbay Recycling and Waste Collection Guidance for Developers. The Highway Authority would not accept waste and recycling bins ever being collected from any part of the highway given the obstruction that will be caused to pedestrians, including children and adults with pushchairs etc. heading to and from the leisure areas north and south of the site. The lack of a communal bin area by the edge of the highway within the site means no future proofing exists for occupiers should issues occur with the private collection arrangement.

Should a Consent be granted, the Highway Authority will require pre-commencement of works to facilitate construction vehicles' access a Construction Traffic Management Plan. This may necessitate a temporary Traffic Regulation Order to remove parking from Alta Vista Road opposite the access. The Applicant will be responsible for any costs incurred by the Council.

### Conclusion

Given the existing permission upon the site, the Local Highway Authority would not object to the application subject to the following being secured by Conditions:

- Prior to works commencing / resuming detailed highway technical plans should be agreed and delivered as such before any occupation.
- Prior to any occupation a Road Maintenance Scheme should be agreed, including the requirements set out above.
- Prior to any occupation a Road Management Scheme should be agreed including the requirements set out above.
- Prior to any occupation agreement that the site will be serviced by a Private Waste Contractor in perpetuity should be made.

An informative should also be added which states that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards.

The Comments of the Drainage and Waste Teams should be noted.

**WSP on behalf of the Highway Authority (updated response dated 21/08/2025):**

Vehicular Access

The new vehicular access will be off Alta Vista Road serving 9 units, whilst the existing remains to serve one unit only. The new access and internal layout must comply with the adoptable standards set out on Page 15 of the Torbay Highways Design Guide for New Developments, April 2025 irrespective of the Applicant confirming it will remain a Private Road.

The Highway Authority recommend a Condition be secured with any consent that requires detailed highway drawings to be submitted demonstrating that the Private Road accords with adoptable standards. An informative should also be added which states that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards.

The Adopted Highways Design Guide states the policy is the Highway should adopt roads serving over 5 dwellings. If highway adoption is unachievable as the Applicant proposes, via a Planning Condition secured to any Consent, *a Road Maintenance Plan for the Private Road should be provided pre-occupation including the arrangements for the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the access road and refuse collection, emergency vehicle and public access in perpetuity. The Private Road Management Scheme should be approved in writing by the local planning authority and should outline the following:*

- a) *The setting up of a company or other entity to be responsible for the on-going management and maintenance of the road, refuse collection, and public access for all units excluding Unit 6 that is served directly off the existing public highway (the "Management Body");*
- b) *How the company and the future management and maintenance of the road and refuse collection will be financed including initial capital investment with subsequent funding;*
- c) *The rights for and obligations on the Management Company to manage and maintain the road and collect refuse;*
- d) *Arrangements for the management and collection of refuse and waste from the dwellings;*
- e) *A road management and maintenance and refuse collection schedule;*
- f) *How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site;*
- g) *Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details;*
- h) *The ongoing maintenance and management of any communal lighting illuminating any part of the access road and surface water drainage systems; and*
- i) *An action plan which specifically covers road maintenance and management of access where potholes or subsidence arise.*

*The development should be carried out in accordance with the Road Maintenance Plan and the Private Road Access Scheme which should thereafter be fully complied with and implemented. No dwelling should be occupied unless it connects directly to an access which is:*

- a) *Adopted, or subject to an agreement by the Highway Authority as a highway maintainable at the public expense; or*
- b) *Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.*

*Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense should be permanently maintained to an adoptable standard and retained and made available for public use in perpetuity.*

The proposed Site Access layout drawing (DWG. 167-SK-P01) shows a 4.8-metre-wide access with a gradient of 1:20 (5%) leading towards the far end of the driveway which is considered acceptable. However, the access road must be constructed as a 'Shared Surface'. The following is to be noted:

- On site access road is shown as 'Tarmac' on the submitted Landscaping Plan (167-PA-P16 Rev A). This needs to be an imprinted coloured bituminous material design mix at the Engineer's specification.
- Detailed design of both site accesses including cross sections, dropped kerbs, the access radii, and visibility splay area of vehicles and pedestrians is required and should be agreed before works resume.
- No drainage information at either site access is shown to demonstrate that no surface water run-off from the site will exit into the highway.
- There is no turning area for delivery / servicing vehicles to turn on site. Whilst tracking for a 7.5tonne HGV is provided, this assumes the driver will reverse in, no parked vehicles are opposite the access to cause an obstruction, and vehicles are not larger. None of these assumptions is guaranteed and an HGV's manoeuvring into or out of the Private Road could easily cause delay, disruption, or incidents upon the public highway involving the traveling public.

#### Car and Cycle Parking

21- parking spaces are proposed including two each for three coach houses and one for the fourth, and two spaces per town house. There are also two visitor spaces and an EV charging point per unit. This is in accordance with Appendix F of the Torbay Local Plan though the positioning of the visitor bays adjacent to the two end units and indeed obstructing access into Plot 10 could see them overtaken by occupiers of those end units as overspill parking.

#### Refuse / Servicing / Emergency Access

The proposed site layout drawings (167-PA-P18 and P19) show refuse collection points for the coach houses in front of garages and for town houses in front of the parking areas. For Unit 6 bins will be collected by the access gate on Roundham Gardens. The Applicant states that a private contractor will be commissioned, however it should be confirmed whether this is for Plot 6 also, given it has direct access of the public highway.

More information is required on how the contractor will collect waste and recycling given Plots 5 and 10 are beyond the recommended distances for drag distance by either the occupier or the contractor. No tracking of a refuse vehicle has been provided entering and exiting the Private Road. Drawings using the contractor's confirmed refuse and recycling

vehicle should be provided and assume vehicles are parked along the western side of Alta Vista Road opposite the access.

A Planning Condition should be secured with any consent to require the site to be serviced by a Private Waste Contractor in perpetuity given the Council will not service the site which is not in accordance with the Torbay Recycling and Waste Collection Guidance for Developers. The Highway Authority would not accept waste and recycling bins ever being collected from any part of the highway given the obstruction that will be caused to pedestrians, including children and adults with pushchairs etc. heading to and from the leisure areas north and south of the site. The lack of a communal bin area by the edge of the highway within the site means no future proofing exists for occupiers should issues occur with the private collection arrangement.

Should a Consent be granted, the Highway Authority will require pre-commencement of works to facilitate construction vehicles' access that a Traffic Regulation Order to remove parking from Alta Vista Road is made. The Applicant will be responsible for consultation and costs of delivering the scheme should the TRO be successful.

### Conclusion

The Local Highway Authority wishes to raise an objection to the application due to the lack of provision for the access and turning of HGV's including refuse, recycling, fire tenders, deliveries vehicles, and 10metre rigid trucks.

The proposed on-site layout is contrary to the current Torbay Highways Design Guide for New Developments, April 2025.

The proposal is not in accordance with the Torbay Recycling and Waste Collection Guidance for Developers which directly could impact the highway.

No information on how the Private Road will be managed or maintained is provided.

Although there is a Permit for 10 flats upon the site from the previous application for 22 bedrooms, this application with this proposal of 10 homes and 32 bedrooms, an uplift of 69%, has significant potential to create more demand for HGV servicing and with more parking on the site, 21 compared to 12, the risk of delay and obstruction on the Private Road overspilling into the public highway increases, as does the risk to passing members of the traveling public be it in a vehicle, on a bike, or on foot.

If the Planning Authority are minded to provide a Planning Permit for this Application, then before works commence / continue detailed highway technical plans should be agreed and before any occupation:

- A Road Maintenance Scheme should be agreed, including the requirements set out above.
- A Road Management Scheme should be agreed including the requirements set out above.
- Agreement that the site will be serviced by a Private Waste Contractor in perpetuity made.
- A Traffic Regulation Order to remove parking from Alta Vista Road is applied for and made subject to due process.

An informative should also be added which states that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards.

The Comments of the Drainage and Waste Teams should be noted.

**WSP on behalf of the Highway Authority (updated response dated 13/08/2025):**

Vehicular Access

The new access and internal layout must comply with the adoptable standards set out on Page 15 of the Torbay Highways Design Guide for New Developments, April 2025. The Highway Authority would recommend a Condition which requires highway details submitted which must indicate that the highways accord with adoptable standards and an informative which state that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards. Our policy states we should adopt a road serving over 5 dwellings.

The proposed Site Access layout drawing (DWG. 167-SK-P01) shows a 4.8-metre-wide access with a gradient of 1:20 (5%) leading towards the far end of the driveway which is considered acceptable. However, the access road must be constructed as a 'Shared Surface'. The following is to be noted:

- On site access road is shown as 'Tarmac' on the submitted Landscaping Plan (167-PA-P16 Rev A). This needs to be an imprinted coloured bituminous material design mix at the Engineer's specification.
- Detailed design of both site accesses including cross sections, dropped kerbs, the access radii, and visibility splay area of vehicles and pedestrians is required and should be agreed before works resume.
- No drainage information at either site access is shown to demonstrate that no surface water run-off from the site will exit into the highway.
- There is no turning area for delivery / servicing vehicles to turn on site. Whilst tracking for a 7.5tonne HGV is provided, relying on such vehicles reversing into the site is not supported as this could lead to delay, disruption, or incidents upon the public highway.

If highway adoption is unachievable, via a Planning Condition secured to any Consent, a Road Maintenance Plan for the access road should be provided pre-occupation including the arrangements for the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the access road and refuse collection, emergency vehicle and public access in perpetuity. The Private Road Management Scheme should be approved in writing by the local planning authority and should outline the following:

- a) The setting up of a company or other entity to be responsible for the on-going management and maintenance of the road, refuse collection, and public access for all units excluding Unit 6 that is served directly off the existing public highway (the "Management Body");
- b) How the company and the future management and maintenance of the road and refuse collection will be financed including initial capital investment with subsequent funding;
- c) The rights for and obligations on the Management Company to manage and maintain the road and collect refuse;
- d) Arrangements for the management and collection of refuse and waste from the dwellings;
- e) A road management and maintenance and refuse collection schedule;

- f) How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site;
- g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details;
- h) The ongoing maintenance and management of any communal lighting illuminating any part of the access road and surface water drainage systems; and
- i) An action plan which specifically covers road maintenance and management of access where potholes or subsidence arise.

The development should be carried out in accordance with the Road Maintenance Plan and the Private Road Access Scheme which should thereafter be fully complied with and implemented. No dwelling should be occupied unless it connects directly to an access which is:

- a) Adopted, or subject to an agreement by the Highway Authority as a highway maintainable at the public expense; or
- b) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense should be permanently maintained to an adoptable standard and retained and made available for public use in perpetuity.

#### Car and Cycle Parking

21- parking spaces are proposed including two each for three coach houses and just one for the fourth, and two spaces per town house. There are also two visitor spaces and an EV charging point per unit. This is in accordance with Appendix F of the Torbay Local Plan.

The Highway Authority are satisfied with the secured and covered cycle parking apart from for Unit 6, as no information is provided.

#### Refuse / Servicing / Emergency Access

The proposed site layout drawings (167-PA-P18 and P19) show refuse collection points for the coach houses in front of garages and for town houses in front of the parking areas. For Unit 6 bins will be collected by the access gate on Roundham Gardens. The Applicant states that a private contractor will be commissioned.

The Highway Authority are concerned that not only is it impossible for any HGV including a refuse or recycling wagon to enter and exit the new access in a forward gear as is required, but, in the event that contractors change or the houses take back a public Council collection, the lack of a communal bin area by the edge of the highway could lead to bins being stored on the footway obstructing pedestrians. This would not be acceptable. A communal bin collection area is required, and the Applicant should accord fully with Torbay Council's waste storage guidance in the interests of public safety and maintaining recycling rates.

#### Conclusion

The Local Highway Authority wishes to raise an objection to the application due to insufficient details in relation to the proposed access arrangements, the on-site highway layout is contrary to the current Torbay Highways Design Guide for New Developments, April 2025, and access arrangements for waste collection are not proven in perpetuity to be without risk to public throughfare.

Detailed highway technical plans should be submitted of both accesses amongst further information if a positive outcome from the Highway Authority is to be secured.

The Comments of the Drainage and Waste Teams should be noted.

**WSP on behalf of the Highway Authority (original response dated 26/06/2025):**

Site Description

The site currently comprises one large dwelling, a detached garage and a pool house. Operations at the site have been discontinued since February 2024, as outlined in the Planning Statement. The site is located in a built-up residential area and is accessible to nearby facilities and local services.

Footways are located on the Alta Vista Road but not on Roundham Gardens. However, a pedestrian and cyclist link to the Southwest Coast Path exists to the south of the site.

Bus stops are available to the north and south of the site on Alta Vista Road, each located less than 100m from the site. The nearest railway station is Paignton, located approximately 800m northwest of the site.

Site History

The site has extant outline planning permission (ref P/2019/0893) that was granted in July 2020 to demolish the existing dwelling on the site and replace this with ten residential apartments and parking.

It is also noted that a pre-application enquiry (ref DE/2024/0172) was submitted in November 2024, where the principle of the proposed redevelopment was agreed. Highways were not consulted on this pre-app.

Policy

The Planning Statement dated April 2025 references various policies outlined in the Torbay Local Plan 2012 to 2030 and the Paignton Neighbourhood Plan. While we welcome this, in support of the planning application the Highway Authority would also require the applicant to review the Torbay Highways Design Guide for New Developments.

Traffic Impact

Trip Generation - Section 4 of the Transport Statement (TS dated April 2025) provides the anticipated trip generation from the proposed residential development. As this is expected to be fewer than 10 two-way vehicular trips during the standard AM and PM peak hours, the development is not considered to have a severe impact on the highway network capacity.

Highway Safety - Section 2.5 of the TS details the collision analysis undertaken in the vicinity of the site using the Devon Collison Map website, which indicates 2 slight collisions near the

Alta Vista Road/ Roundham Road junction. As no cluster sites have been identified, the Highway Authority do not require the Applicant to carry out any further exercise.

### Design Considerations

Vehicular Access - Vehicular access is proposed via a new junction off the Alta Vista Road serving the development. The existing vehicular access to the site will be retained as a secondary point of access.

It is noted in the Design and Access Statement (DAS – 04, dated April 2025) that the new site access works has commenced in October 2024, in accordance with the earlier consented planning permission – P/2019/0893, however it should be noted that the design has changed between the permitted and proposed (Drawing No 110 Rev A).

The proposed layout is to serve 10 dwellings and therefore the internal layout must be built to adoptable standards as per the Torbay Highways Design Guide for New Developments (Feb 2024). Under the Design Guide, the access road will need to be a 'Shared Surface'. The current proposals do not meet these standards:

- On site access road is shown as 'Tarmac' on the submitted Landscaping Plan (167-PAP16 Rev A). This needs to be an imprinted coloured Bituminous Material Design mix at the Engineers Specification. (A single hard surface for use by pedestrians and vehicles without segregation).
- Details of the dropped kerb / ramp including gradients must be provided.
- There is no turning area for delivery / servicing vehicles to turn on site.
- Details of the waste collection arrangements, including drag distances and reversing distances must be demonstrated to be in line with the Torbay Recycling and Waste Collection Guidance for Developers.

### Car and Cycle Parking

A total of 21 car parking spaces is proposed (two spaces per unit for 3 coach houses, one space per unit for the remaining 1 coach house and two spaces per unit for 6 town houses, along with 2 spaces for visitors in communal parking area). This is in accordance with the Torbay parking requirements. EV charging points are proposed alongside the parking area for the housing units and we welcome this.

Appendix F of the Torbay Local Plan requires that 10% of the total allocation of car parking spaces must be dedicated and appropriately designed for disabled people and provide for safe, easy and direct movement for mobility impaired users. Currently, no information is available regarding this in the supporting plans/ documents.

The Highway Authority are satisfied with the secured and covered cycle parking provision is proposed for each of the individual housing units.

### Trees

The proposed layout plan (Drawing ref 167-PA-P17, Rev A dated April 2025) indicates removal of the existing hedge in the property to be removed and replaced with new planting. Care should be taken to ensure that the public highway boundary is respected during all times.

### Planning Obligation

The Local Highway Authority will seek the necessary 278 works or S106 planning contributions that are essential to make the scheme acceptable in planning terms. Please also refer to the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, Section 4.3 for the framework of seeking additional Sustainable Transport contributions for major schemes (PCAH SPD (<https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/spd/>) and Table 4.3. For major proposals that are likely to result in increased trips, Sustainable Transport contributions will be sought in accordance with the Planning Contributions SPD.

### Conclusion

The Local Highway Authority wishes to raise an objection to the application due to insufficient details in relation to the proposed access arrangements and because the on-site highway layout is contrary to the Torbay Highways Design Guide for New Developments (NPPF para 115c).

### **Devon County Council's Principal Ecologist (updated response dated 20/08/2025):**

I am happy with the amendments suggested by the agent – happy for the CMS to be updated with those changes.

### **Devon County Council's Principal Ecologist (updated response dated 13/08/2025):**

The CMS as submitted doesn't include any ecological considerations for construction, mainly around pollution control, water quality, nesting birds nor bats. I believe that the construction recommendations as provided within the ecology report need to be added to the CMS, and there also needs to be a small section on how water quality/pollution will be controlled throughout construction, given the location of the scheme in close proximity to the marine SAC.

### **Devon County Council's Principal Ecologist (response dated 23/06/2025):**

#### South Hams SAC – Berry Head Recreational Zone

The HRA developed and agreed with Natural England for the Torbay Local Plan concluded that as long as the s106 contributions as described above are implemented as part of development in the Brixham Peninsula, development in this area will have no adverse effect upon the integrity of any of the European sites and the conservation objectives would be sustained. With this measure secured, there will be no adverse effect on the integrity of the SAC.

#### Lyme Bay to Torbay SAC

The site is approximately 200m from Lyme Bay and Torbay SAC. Qualifying features are reefs, sea caves and great white sharks.

The potential threat of increased public access and disturbance to the sea caves has been raised in the SAC Site Improvement Plan (SIP) - Site Improvement Plan: Lyme Bay and Torbay - SIP128 ([naturalengland.org.uk](https://naturalengland.org.uk)).

*The SIP states: A number of the coastal cave features are accessible to visitors. If access is left unregulated, coasteerers, kayakers, diver visits and casual visitors using the entrances in the coastal cliffs could impact the delicate fauna and rare species. Coasteering is growing in popularity as a sport, so the sea caves are likely to be visited more frequently in future. At least two commercial dive operators organise dives at Watcombe Sea Caves. The biological communities at risk are highly delicate.*

The SIP states however, that this issue is being addressed through the promotion of Codes of Conduct and a coasteering licencing scheme led by the Torbay Coast and Countryside Trust. Furthermore, this application does not lead to a direct increase in an activity likely to impact upon the designated features of the SAC.

It is therefore considered that this proposal will not result in a Likely Significant Effect on the SAC either alone or in-combination with other Plans and Projects.

There is potential for an increase in waterborne pollutants to be produced and enter controlled water during the construction phase of development.

In the absence of mitigation, it is deemed that this development could, in combination with other plans and projects, have a Likely Significant Effect on the Lyme Bay and Torbay SAC due to pollution impacts and so Appropriate Assessment is needed.

#### Appropriate Assessment:

A Construction and Environmental Management Plan (CEMP) will be submitted and agreed with the LPA. This document will provide measures of construction controls on dust and reducing contaminated run-off.

The CEMP and any required pollution control measures will be conditioned as part of any planning permission.

#### HRA Conclusion:

With these mitigation measures secured, there will be no adverse effect on the integrity of the SAC. Condition – CEMP.

#### European Protected Species - Bat flight lines / foraging

The consultant ecologist deems that the site offers features suitable for commuting and foraging bats, but the site was of too small a scale to undertake bat activity surveys – this conclusion is deemed valid.

Potential impacts of the development would be associated with lighting during both the construction and operational phases of development. Condition – External lighting.

#### European Protected Species - Bat roosts – buildings / trees

Proposed mitigation includes an application for a European protected species licence from Natural England as the consultant ecologist believed an offence cannot be avoided.

The authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPSL which would permit the proposal to

lawfully proceed. The first two tests (below) are essentially planning tests and are for the case officer to conclude. The third test I have concluded below.

- i) The consented operation must be for 'preserving public health or public safety or other imperative reasons for overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; confirms in writing to the LPA that the recommendations have been implemented. Condition: No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority. Reason: In the interests of nocturnal biodiversity.
- ii) There must be 'no satisfactory alternative'
- iii) The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

Given the mitigation measures included within the Ecology Report, it is my opinion that the third test of the Habitats Regulations is satisfied. If upon consideration of the first two tests you consider them met, then it is reasonable to conclude that Natural England would grant an EPS licence for this development.

Condition – Ecological enhancements and recommendations.

#### Other Protected Species - Nesting birds

These measures are deemed sufficient to minimise potential negative impacts on nesting birds. Condition – Vegetation clearance.

#### Net Gain

Statutory Biodiversity Net Gain not required because this application is part retrospective.

### **Planning Officer Assessment**

#### Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact (including the impact upon heritage assets)
3. Residential Amenity
4. Highways, Movement and Parking
5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change
8. Designing Out Crime

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

The proposal is for the demolition of the existing dwelling, garage and outbuildings at 11 Alta Vista Road and the construction of 10no. dwellings plus associated access, parking, infrastructure, landscaping and associated works.

The site benefits from an extant planning permission (P/2019/0893 and P/2022/1090) which was implemented in October 2024, such included the creation of the new access onto Alta Vista Road and the removal of land to the north of the existing dwelling including the removal of the former swimming pool.

The Council's Principal Policy & Project Planner has been consulted on the application and has confirmed that the principle of redevelopment has been established. The Planner has outlined that the proposed scheme is an improvement on the previously approved flatted scheme, as houses are likely to be more marketable than flats. The Planner has also stated that the site may be capable of achieving more than 10 dwellings, however the site area appears to be about 0.19ha so 10no. dwellings is approximately 52no. dwellings per hectare, which is a reasonable density. It is noted that the surrounding area has relatively low density. The proposal achieves a significant increase in density of the site, and there is no current policy in the Development Plan which imposes a minimum density. The Planner concluded that the proposal that achieves good use of an urban brownfield site.

Policy H1 of the Local Plan states that proposals for new homes within the Strategic Delivery Areas will be supported subject to consistency with other policies of the Plan and subject to nine criteria, notably including the need to provide a range of homes to meet the objectively assessed needs and maintain a rolling 5-year supply of deliverable sites. Policy SS12 of the Local Plan sets out that housing provision will focus upon a sustainable pattern of distribution throughout the Bay, with an emphasis upon the regeneration of brownfield sites and town centre sites, and development of urban sites. The site is located within the Paignton Strategic Delivery Area, as defined by Policy SS1 of the Local Plan. Policy SS1 confirms that Strategic Delivery Areas are the focus for delivery of growth and change in the Bay over the Plan period, providing strategic and sustainable locations for new employment space, homes and infrastructure.

Paragraph 124 of the NPPF promotes the effective use of land in meeting the need for homes and other uses. Paragraph 125 of the NPPF presents clear support for the principle of using land effectively to meet the need for homes and guides that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. It also promotes support for the development of under-utilised land and buildings, especially where proposal would help to meet identified needs for housing.

The Government published the most recent Housing Delivery Test in December 2024. Torbay's result is 66%. The Council have recently reported that their housing land supply figure has decreased to 1.72 years through a recent planning appeal (ref: APP/X1165/W/24/3354507). The Housing Delivery Test requires that the presumption in favour of sustainable development be applied as per Paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states:

*Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [Footnote 8], granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance [Footnote 7] provides a strong reason for refusing the development proposed; or*  
*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination [Footnote 9].*

*Footnote 7: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.*

*Footnote 9: The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12.*

Whilst government guidance pulls in somewhat different directions, there is a clearly stated government objective of boosting the supply of housing. Policies SS3 and SS13 of the Local Plan also set out a presumption in favour of sustainable development separately to the NPPF. Accordingly, the presumption in favour of sustainable development is applied to applications involving the provision of housing.

Under the presumption, permission should only be refused where either:

- (i) The application of policies in the Framework that protect designated heritage assets provides a strong reason for refusal (i.e. the “tilted balance” at Paragraph (d)i) or
- (ii) The impacts of approving a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (i.e. the “tilted balance” at Paragraph 11(d)ii).

Development plan policies are taken into account when assessing whether the harm caused would “*significantly and demonstrably*” outweigh the benefit.

Given the explanation within Footnote 8 and Paragraph 11(d) of the NPPF the policies within the Development Plan which are most important for determining the proposal are out-of-date. The presumption in favour of sustainable development indicates that planning permission should be granted unless one of two circumstances apply. It is considered that neither limb within Paragraph 11(d) applies and therefore the presumption in favour of sustainable development applies and the tilted balance is engaged.

Policies SS3 and SS13 of the Local Plan also set out a presumption in favour of sustainable development separately to the NPPF.

In terms of the principle of development, the development is considered acceptable in principle.

This position is however subject to wider policy considerations that are relevant to the development proposal and consideration of relevant material considerations, the forthcoming sections of the report will discuss these matters.

## **2. Design and Visual Impact (including Heritage Impacts)**

It is important to note that achieving good design is a central thread within national guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance on this. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 goes on to state 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 139 states that “*development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design [Footnote 54], taking into account any local design guidance and supplementary planning documents such as design guides and codes.*”. Similar design expectations are engrained within the Development Plan through Policies SS11, DE1 and DE4 of the Local Plan and Policy PNP1(c) of the Neighbourhood Plan.

The site is in a visually prominent, highly elevated location, a corner plot where Alta Vista Road meets Roundham Gardens, evident from a large expanse of public vantage points. Roundham Gardens is characterised by large, detached, two storey dwellings, whilst on the opposing (western) side of Alta Vista Road in the Roundham & Paignton Harbour Conservation Area is a three to four storey apartment block.

The application site is directly adjacent to Roundham & Paignton Harbour Conservation Area. The site is occupied by large two storey detached dwelling, an associated double garage, a pool house and previously a swimming pool. The existing buildings on site have pitched roofs and the existing dwelling is finished in a mixture of render, brick and hanging slates, whereas the garage and pool house are finished in render. The site is bounded by a Cock and Hen stone wall with brick pillars, which form the pedestrian access points from Alta Vista Road and the vehicular access point from Roundham Gardens.

The extant planning permission was for the demolition of the existing dwelling and associated ancillary buildings and the construction of a single block of development that would contain 10no. (mixture of 2-bed and 3-bed) residential flats. The extant permission sought a similar position within the plot as the existing dwelling, but sought to increase the width of the built form from east to west. The parking for the flatted development was to the north east section of the site.

Objectors have raised concerns regarding the proposed development in terms of its impact on the local area, its impact on the conservation area, it not being in keeping with the local

area, it constitutes overdevelopment, it sets an unwanted precedent and its design/scale/visual impact.

The proposal seeks to maintain a similar positioning as per the extant planning permission, but widen the width. The proposals seek to form 6no. 4-bedroom townhouses and 4no. 2-bedroom coach house style dwellings with associated landscaping, outdoor amenity space and parking provision. The proposed townhouses would front Roundham Gardens providing an active frontage, whereas the proposed coach house style dwellings would be located behind the townhouses providing a lower-scaled transition towards the northern boundary.

The supporting Design and Access Statement outlines that the design of the townhouses takes inspiration from the local beach hut vernacular, whereas the coach house dwellings are subdued and traditional in form to demonstrate subservience to their positioning in the site. The proposed materials palette reflects the site's coastal location as well as providing a contemporary design. A planning condition is recommended for the external materials.

In terms of scale and massing, the extant planning permission sought a flatted development that measured approximately 32.5 metres in width, had a ranging depth of 14.5-17 metres and a ranging height of 9.9-12.2 metres. The proposed 6no. townhouses would have the following approximate measurements – 35.9 metres width excluding the balconies (38.6 metres including the balconies), 12.2 metres depth and a ranging height of 11.5-12.7 metres when within the parking court but 9.9 metre height when viewed from Roundham Gardens. The application has been supported by overlaid drawings to demonstrate that the proposed development does not exceed the height established through the extant planning permission. Whilst the proposed width is slightly larger than the extant scheme, it is considered that such is acceptable as it is maximising the opportunity of the site. The proposed roofscape differs from the extant scheme, the proposed roofscape of the townhouses will have a north-south pitch rather than the extant scheme which sought an east-west pitch.

The general design approach appears to be acceptable for this location and is considered to be a betterment to the extant planning permission. The southern elevation of the townhouses presents a development which is more in keeping with the coastal environment than the extant planning permission and such is welcomed. The proposed coach houses are staggered to respond to the topography and to assist in breaking up the massing which it has demonstrated effectively

Given the siting, scale, and design of the proposal, it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality, subject to a planning condition to secure details of external materials prior to their installation. The proposal is considered to comply with Policy DE1 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan and the guidance contained in the NPPF.

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Development is also required to sustain and enhance undesignated heritage assets.

It is also incumbent on the Authority, in exercising its duties, under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Paragraph 202 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The NPPF outlines that the conservation of heritage assets should be given great weight in decision making (Paragraph 212 refers).

As the site is adjacent to Roundham & Paignton Harbour Conservation Area, the application is supported by a Heritage Statement. The Council's Principal Historic Environment Officer has been consulted on the application and agrees with the supporting Heritage Statement where it outlines the important characteristics of the conservation area and the contribution the existing site and its environs makes to this character, as well as quantifying the impact that the proposed development would have on the nearby conservation area. The Officer has concluded that the proposed development would preserve the character and appearance of the Roundham & Paignton Harbour Conservation Area and would have a neutral impact on its significance as a designated heritage asset.

The proposal is considered to accord with Policy SS10 of the Local Plan and the guidance contained within the NPPF.

### **3. Residential Amenity**

The NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Paragraph 135). The Local Plan contains policy guidance aligned with the aspirations of the NPPF, principally through Policies SS11, H1 and DE3, towards ensuring that residential development produces high-quality living environments that present a good level of amenity for future users and neighbouring occupiers. Policy DE3 also identifies size standards for self-contained units, which reflect the nationally described space standards.

#### Quality of living accommodation for future occupiers

Policy DE3 sets out the minimum floor space standards for new residential units, which align with the nationally described space standards. The proposed residential units comply with the minimum floor space requirements.

The proposal seeks to provide 6no. x 4-bed townhouse and 4no. 2-bed coach house style dwellings. All dwellings are considered to provide an acceptable scale of living accommodation with floor areas exceeding the prescribed standards. In addition to the size of the space, the quality of the space should be considered, in terms of how it is positively influenced by natural light levels and outlooks. It is considered that the 6no. proposed townhouses will provide future occupiers with adequate natural light levels and outlook. In

terms of the proposed coach house style dwellings, the applicant previously submitted a pre-application enquiry where the matter of light levels and outlook was discussed in detail. The supporting information details that the coach house dwellings would be limited to short periods of overshadowing in the winter months, but will maintain good levels of natural light throughout the remainder of the year, demonstrating the proposal is in line with BRE guidelines. The proposed development is therefore considered to provide all residential units with adequate natural light levels and outlooks.

Policy DE3 of the Local Plan guides that new dwellings should provide 55 square metres of outdoor amenity space. The proposed plans show the 6no. townhouses having outdoor amenity areas, with all but 1no. having such within their frontages, as well as balconies. The proposed 4no. coach houses would have small first floor projecting balconies. It should be noted that the site is within very close proximity to Roundham Gardens, Youngs Park and Goodrington Sands, which offer large expanses of public outdoor space. Therefore, the requirement to provide 55 square metres is mitigated by the adjacent public open spaces.

#### Adjacent neighbouring amenity

Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. Objectors have raised concerns regarding noise, loss of light and residential amenity.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through positively managing the process through a Construction Method Statement, the application is supported by such given that works have commenced, a planning condition shall be employed to secure such.

In terms of the finished development the residential use aligns with the residential uses nearby and the proposed use would not result in undue noise or general disturbance.

To the west of the application site, the existing properties on the opposing side of Alta Vista Road (Nos. 4, 4A, 6 and 6A Alta Vista Road and Highcliffe Mews) will not be detrimentally affected by the proposed development given the separation distances (in excess of 20 metres) and the extant planning permission. To the eastern of the application site is 'West Cliff'. The separation distance between the built form of the proposed development (Plot 6) and 'West Cliff' is approximately 7.5 metres, however it should be noted that 'West Cliff' has no existing openings at first floor on its west elevation facing the application site. 'West Cliff' does have some openings at ground floor on its west elevation. In relation to the proposed development, Plot 6 has got openings on its eastern elevation across all floors. It is considered unreasonable to employ a planning condition to obscurely glaze the ground floor openings as the intervening boundary treatment will prevent any intervisibility/privacy issues. At first and second floor there are sets of doors located towards the front of the dwelling, given the separation distances and oblique angle towards 'West Cliff' it is not considered necessary to obscurely glaze such. At first floor there is a secondary window serving the open living space and at second floor there is a window serving an en-suite, given the existing vegetation which is outside of the applicant's ownership it is considered reasonable to recommend a planning condition to obscurely glaze both openings. A further planning condition is recommended to secure privacy screens to the eastern flank of the first and

second floors of Plot 6's balconies to ensure privacy levels are maintained. Given the aforementioned planning conditions, it is considered that the proposal would not have a detrimental impact upon the privacy of the occupiers of the property 'West Cliff'.

To the north of the site is Nos.5, 5A, 7 and 7A Alta Vista Road, the application is supported by suitably scaled drawings demonstrating the 25 degree test, which confirms that the proposed development would not result in any overshadowing to these adjacent properties. From a site visit, it is noted that the rear outdoor amenity spaces for Nos.5, 5A, 7 and 7A Alta Vista Road are at a higher level than natural ground level. The application is supported by proposed sections which demonstrate that there will be additional boundary treatments to the northern boundary, to prevent the second bedrooms of the coach houses from overlooking the outdoor amenity spaces of the adjacent neighbours. A planning condition is recommended to secure suitable boundary treatments, including heights, finishes and details of how such will interact with existing boundary treatments.

Subject to the aforementioned planning conditions and given its siting, scale, and design, it is considered that the proposal would not result in any detrimental harm to the amenities of the occupants of neighbouring buildings in terms of their privacy, outlook, or access to natural light. Having regard to the amenities provided within the proposal for future occupants and the future relationship of the development with adjacent plots and neighbouring occupants, the proposed scheme broadly aligns with the aims and objectives of Policies SS11 and DE3 of the Local Plan and the guidance contained within the NPPF.

#### **4. Highways, Movement and Parking**

Paragraph 115 of the NPPF guides that in assessing specific applications for development it should be ensured that a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach. Paragraph 116 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Development Plan objectives align with the aspirations of national guidance with principal guidance within Policies TA1, TA2 and TA3 of the Local Plan encompassing outcomes for developing a sustainable model of transport, providing a good standard of access for walking, cycling, public and private transport modes, standard for parking and cycling facilities. Policy PNP1(d) of the Neighbourhood Plan states that new residential development should aim to achieve where appropriate and subject to viability, purpose designed cycle parking space that is covered, safe and convenient. Where cycle parking and bin storage are located within a garage, it should be demonstrated that the garage will be of sufficient size to house at least 2no. cycles in addition to car parking, complying with the relevant adopted standards.

The site is located in a built-up residential area and is accessible to nearby facilities and local services. Footways are located on the Alta Vista Road but not on Roundham Gardens. However, a pedestrian and cyclist link to the Southwest Coast Path exists to the south of the site. Bus stops are available to the north and south of the site on Alta Vista Road, each located less than 100m from the site. The nearest railway station is Paignton, located approximately 800m northwest of the site. A new vehicular and pedestrian access point is proposed from Alta Vista Road, while the existing access from Roundham Gardens will be maintained as a secondary access. Alta Vista Road and Roundham Gardens are subject to a 30mph speed limit, and neither are classified roads.

The proposed development seeks to provide 21no. parking spaces. Objectors have raised concerns regarding traffic, access and parking. Local Plan policy guidance states that the proposed development should provide 2no. off-street parking spaces per dwelling, totalling 20no. off-street parking spaces, however the proposal provides a deficit of 1no. parking space for Plot 10 and provides 2no. parking spaces for visitors. The proposed layout assigns specific parking spaces to each dwelling. The Highway Authority has not raised a concern regarding the level of parking provision and is satisfied with the accessibility of the parking provision. Planning conditions are recommended to secure the parking provision and the provision of electric vehicle charging points. Provision should also be made for 2no. bicycle storage spaces per dwelling, such is recommended to be secured via planning condition, notwithstanding the approved plans as no information of such has been provided for Plot 6.

In terms of trip generation, the supporting Transport Statement outlines the anticipated trip generation from the proposed residential development. The Transport Statement states that it is expected to be fewer than 10 two-way vehicular trips during the standard AM and PM peak hours, the development is not considered to have a severe impact on the highway network capacity. The Highway Authority agree with this conclusion.

The Highway Authority consider that the proposed on-site layout is contrary to the current Torbay Highways Design Guide for New Developments. The Adopted Highways Design Guide for New Developments states the policy is the Highway should adopt roads serving over 5no. dwellings. If highway adoption is unachievable as the applicant proposes, then the Highway Authority have stated that a planning condition securing a Road Management and Maintenance Plan should be imposed. The new vehicular access will be off Alta Vista Road which will serve 9no. residential units, whilst the existing access on Roundham Gardens will serve 1no. residential unit. The proposal shows a 4.8-metre-wide access with a gradient of 1:20 (5%) leading towards the far end of the driveway which is considered acceptable to the Highway Authority. However, the Highway Authority have stated that the access road must be constructed as a 'Shared Surface'. The Highway Authority have stated that the new access and internal layout must comply with the adoptable standards contained within the Torbay Highways Design Guide for New Developments. A planning condition is recommended to secure such. The Highway Authority have also recommended an informative which state that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards. A planning condition is also recommended to secure the hard landscaping for the proposal.

The Highway Authority have requested a pre-commencement planning condition in relation to construction vehicles' access and a Traffic Regulation Order to remove parking from Alta Vista Road. However, the application is part-retrospective and having undertaken a site visit construction machinery has been on-site, therefore such is not considered necessary.

The applicant has provided some tracking plans, including for 7.5 tonne heavy goods vehicles. The tracking plans assume that the driver will reverse in and that vehicles will not be larger than 7.5 tonnes. When considered delivery drivers such vehicles will be under this limit. The Highway Authority have stated that the tracking assumes no vehicles parked on the opposite side of Alta Vista Road. The Highway Authority have raised concern that the manoeuvring could cause delay, disruption or incidents on the public highway, however the extant planning permission would have required the same arrangements for larger vehicles wanted to visit the site. The Highway Authority have stated that the number of vehicles over and above this size will be limited and those that do need access will more than likely be accompanied by banksmen to assist with safety on the public highway.

The Highway Authority have raised concern regarding the increase in number of bedrooms from the extant planning permission, in terms of servicing, however the quantum of households remains as 10no. therefore it is not considered reasonable to assume that there would be an increased risk of delay and obstruction from vehicles on the private access overspilling into the public highway causing a risk to passing members of the traveling public be it in a vehicle, on a bike, or on foot. A planning condition is recommended to secure the detailed design of the access including cross sections, dropped kerbs, the access radii, and visibility splay area of vehicles and pedestrians.

In terms of key ancillary elements, Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage of waste. The applicant has confirmed that all the proposed residential units will have their waste collected by a private contractor. The Highway Authority have raised concerns regarding the drag distances by either the occupier or the contractor for Plots 5 and 10. However, further measurements have taken place, and it is confirmed that Plot 5 is within the requisite drag distance, and Plot 10 is very marginally outside of such. The Highway Authority have stated that a communal bin area should be provided within the site, however given the drag distances this is not considered necessary.

The Highway Authority have removed their objection, subject to the imposition of planning conditions which are recommended at the end of this report. Subject to the aforementioned planning conditions, the proposed development is considered to comply with Policies TA1, TA2, TA3 and W1 of the Local Plan and Policy PNP1(d) of the Neighbourhood Plan.

## **5. Ecology, Biodiversity and Trees**

Paragraph 187 of the NPPF provides guidance in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity. The Development Plan frames similar aspirations principally through Policy NC1 of the Local Plan, the latter in terms of impacts upon any existing protected species or habitats. Policy C4 of the Local Plan states that development proposals should seek to retain and protect existing hedgerows, trees and

natural landscape features wherever possible, particularly where they serve an important biodiversity role.

Objectors have raised concerns regarding trees and wildlife. The application is supported by the Council's Wildlife Trigger Table and an Ecological Impact Assessment.

The supporting ecological information has been reviewed by Devon County Council's Principal Ecologist. The site is approximately 200m from Lyme Bay and Torbay Special Area of Conservation (SAC). The proposal does not lead to a direct increase in an activity likely to impact upon the designated features of the SAC. It is therefore considered that this proposal will not result in a Likely Significant Effect on the SAC either alone or in-combination with other Plans and Projects. There is potential for an increase in waterborne pollutants to be produced and enter controlled water during the construction phase of development. To mitigate such, a planning condition is recommended to secure a Construction and Environmental Management Plan, subject to such there will be no adverse effect on the integrity of the SAC.

The site offers features suitable for commuting and foraging bats, potential impacts of the development would be associated with lighting during both the construction and operational phases of development. Therefore, a planning condition is recommended to ensure that no external lighting is installed without the permission of the Local Planning Authority. Emergence surveys were undertaken which informs that the pool house is used as an occasional night roost by lesser horseshoe bats, with the proposed demolition of such, it will result in the bat roost being permanently destroyed. However, a compensatory night roost will be provided in advance of demolition of the pool house. Proposed mitigation includes an application for a European Protected Species Licence from Natural England as the consultant ecologist believed an offence cannot be avoided.

As the proposal will trigger a Habitats Regulations offence (destruction/obstruction of roosts), the Local Planning Authority must consider whether the proposal meets the three derogation tests, and accordingly whether Natural England are likely to grant a European Protected Species Licence which would permit the proposal to lawfully proceed. The three derogation tests are outlined below:

1. Imperative Reason Overriding Public Interest - The proposal would result in the provision of 10no. residential units, whereas the existing site contains 1no. residential unit. The proposal would deliver housing, make effective use of previously developed land. It would also deliver tangible economic benefits to the local building trade in the construction of the development and subsequent patronage of local services by future occupants.
2. No Satisfactory Alternative - Given the application site benefits from an extant planning permission, whereby the demolition of the building which contains the roost has been agreed. It is considered that there is no satisfactory alternative.
3. Maintenance of Favourable Conservation Status - The ecology report sets out mitigation measures which Devon County Council's Ecologist has confirmed that they consider would satisfy this third test, subject to a planning condition imposed requiring adherence to the ecological report, including the delivery of the ecological enhancements.

The application site includes some habitats in the wider area have the potential to support nesting

birds. A planning condition is recommended regarding vegetation clearance as well as ensuring mitigation and enhancement measures in line with the supporting ecological report.

Policy NC1 of the Local Plan states all development which creates recreational pressure upon the Annex I habitats (European dry heath, semi-natural grasslands and scrubland facies on calcareous substrates) at the Berry Head to Sharkham Point Component of the South Hams SAC must pay a contribution towards mitigating the impact of increased visitor pressure. This mitigation has been costed at £135 per new dwelling. Providing that the proposed development provides a monetary contribution via s.106 legal agreement/unilateral undertaking equivalent to £135 per new unit, the resultant increases in recreational pressure can be mitigated and the development will not have an adverse effect upon the integrity of the European site. The HRA developed and agreed with Natural England for the Local Plan concluded that as long as new developments provide the contributions as described above to deliver the required mitigation measures, there will be no adverse effect upon the integrity of the European site as a result of increased recreational pressures impacting the Annex I habitats, and the conservation objectives would be sustained.

The local financial contributions section of this report covers this contribution.

In England Biodiversity Net Gain (BNG) has been mandatory from 12 February 2024 under the Town and Country Planning Act 1990 (as inserted by the Environment Act 2021). This means that, subject to certain exemptions, development must deliver a 10% gain in biodiversity. The application is part-retrospective and Devon County Council's Ecologist has confirmed that as such the proposal is exempt from delivering the mandatory 10% biodiversity net gain. The NPPF confirms that planning policies and decisions should contribute to and enhance the natural environment by providing net gains for biodiversity. A planning condition is recommended to ensure that the proposed development secures a net gain.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

SWISCo's Senior Tree Officer has reviewed the soft landscape proposals, however due to the density of the proposed development there is not scope for meaningful structural tree planting. The Officer has confirmed that the proposed hedges required for plot subdivision and as boundary treatments are appropriate for the proposed context. A planning condition is recommended to secure the proposed soft landscape works.

Subject to the aforementioned planning condition, the development is considered acceptable, in-line with the aspirations of Policy C4 of the Local Plan, and advice contained within the NPPF.

## **6. Flood Risk and Drainage**

The NPPF provides guidance towards avoiding inappropriate development in areas of flood risk by directing development away from areas at higher risk (Paragraph 170), and when determining applications seeks that local planning authorities ensure that flood risk is not increased elsewhere (Paragraph 181). The Development Plan offers similar expectations for ensuring the risk of flooding is not increased, together with expectations that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, through Policy ER1. Policy ER1 of the Local Plan also outlines a hierarchy for water-flow management within new development, with similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay. Policy PNP1(i) of the Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The application site sits within Flood Zone 1 and the wider Torbay Critical Drainage Area as designated by the Environment Agency. Objectors have raised concerns regarding drainage. The submission has been reviewed by the Council's Drainage Engineer. The application has been supported by a flood risk assessment and a drainage strategy.

The Engineer has confirmed that due to the site constraints and likely ground conditions, a controlled discharge off-site would be considered acceptable. Therefore, the proposed surface water drainage strategy is for all surface water run-off from the development to be drained at a controlled discharge rate to the combined sewer system. The hydraulic design confirms that the drainage system has been designed for the critical 1 in 100 year storm event plus 50% for climate change. A planning condition is recommended to secure surface water drainage.

Subject to a planning condition to secure the surface water drainage for the proposed development, the proposal is considered to accord with Policy ER1 of the Local Plan and Policy PNP1(i) of the Neighbourhood Plan.

## **7. Low Carbon Development and Climate Change**

Paragraph 161 of the NPPF guides that the planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and floor risks and coastal change. It should help: to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Policy SS14 of the Local Plan supports national guidance and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 of the Local Plan seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. Policy PNP1(f) of the Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability measures towards a sustainable low carbon energy efficient economy.

The applicant has submitted an Energy and Sustainability Statement and completed the Council's Sustainability Checklist. The Council's Principal Climate Emergency Officer has been consulted on the application and has confirmed that the submitted documents both broadly meet Policy SS14 and ES1 of the Local Plan and Policy PNP1(f) of the Neighbourhood Plan.

The applicant is proposing a range measures/approaches that will result in an estimated 63% site-wide saving (over Building Regulations Part L 2021), and includes:

- Fabric first approach
- Installation of Air Source Heat Pumps (estimated to provide 53% of the site's total energy demand) and Solar PV
- EV charging points
- Water saving measures
- Overheating assessment to follow at the detailed design stage

The Officer has recommended planning conditions should be employed to accord with the energy and sustainability statement and incorporation of renewable energy measures. Subject to the aforementioned planning conditions, the proposal is considered to accord with Policies ES1 and SS14 of the Local Plan, and the guidance contained within the NPPF.

## **8. Designing Out Crime**

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy PNP1(g) of the Neighbourhood Plan outlines that all developments will be expected to show how crime and the fear of crime have been taken into account.

The application has been supported by a Crime Prevention Statement. The Police Designing Out Crime Officer was consulted and commented upon the application. The Officer has provided recommendations and concerns with some elements the proposal, including the access around Plots 1 and 6 in terms of unauthorised access and anti-social behaviour; locks on external doors; vegetation and species of hedging.

A planning condition is recommended to secure up-to-date Secured by Design measures to assist in preventing crime and the fear of crime. Subject to the aforementioned planning condition, the proposal is considered to accord with Policy SS11 of the Local Plan and Policy PNP1(g) of the Neighbourhood Plan.

## **Sustainability**

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

### **The Economic Role**

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

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

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwelling to be provided must carry significant weight in this balance.

The provision of housing would provide an appropriate use and offer units within a sustainable location. On balance, the social impacts of the development weigh in favour of the development.

### **The Environmental Role**

With respect to the environmental role of sustainable development the development is supported by drainage, landscaping, and ecological measures to mitigate impact, as detailed in this report. The proposed development would preserve the character and appearance of the Roundham & Paignton Harbour Conservation Area and would have a neutral impact on its significance as a designated heritage asset. On balance, the environmental impacts of the development weigh in favour of the development.

### **Sustainability Conclusion**

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

### **Statement on Human Rights and Equalities Issues**

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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different

people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

## **Local Finance Considerations**

### **Affordable Housing:**

The proposal falls below the threshold for affordable housing contributions as outlined in Policy H2 of the Local Plan which seeks affordable housing contributions on brownfield sites of 15 dwellings or more.

### **CIL:**

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm for 4+ dwellings.

The estimated CIL liability is £103,860.99. This figure is indexed linked, and the final figure will be calculated on the day of the decision.

An informative can be imposed, should consent be granted, to explain the applicant's/developer's/ landowner's obligations under the CIL Regulations.

CIL is a "Local Finance Consideration" relevant to determining applications. However, in the officer's assessment, it is not a determining factor (either way) in the planning balance assessment below.

### **S106:**

Site Acceptability Matters: Recreational impacts financial obligation to mitigate additional pressures upon the South Hams SAC in accordance with Policy SDB1 of the Local Plan and as identified as a necessary mitigation within the completed HRA/AA.

£135 per new dwelling in the Brixham Peninsula towards management/reduction of impacts on the Berry Head grassland, in accordance with the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022). For 10no. dwellings this would equate to an obligation of £1,215.00 (9 x £135, as there is 1no. existing residential unit). This has been previously secured through CN/2024/0059 which relates to P/2019/0893. However, the applicant has confirmed that if planning permission is granted for this current scheme, then P/2019/0893 will not be built out.

Affordable Housing: Not applicable for this scale of development on a brownfield site.

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

A unilateral undertaking is considered necessary to confirm that the monies previously paid will transfer onto this planning permission.

## **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. The development does not meet the thresholds for screening and is not in a sensitive area.

#### **HRA:**

Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

#### **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 housing would produce a significantly positive impact overall and help with the supply of much needed housing.

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 proposal is supported by policies in the Local Plan that seek to boost housing supply. As noted above, the Council has less than 5 years housing land supply and on this basis the Development Plan must be “deemed” to be out of date. At 1.72 years supply, the shortfall is serious and must be given significant weight in the planning balance. Out-of-date policies can still carry weight in the planning balance, but in practice attention shifts to other material considerations, especially the Presumption in Favour of Sustainable Development which is set out in Paragraph 11(d) of the NPPF.

Paragraph 11 of the NPPF states:

*Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [Footnote 8], granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance [Footnote 7] provides a strong reason for refusing the development proposed; or*  
*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination [Footnote 9].*

When taking account of the Government’s objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with the acknowledged important contribution that small sites can make to meeting the housing requirement of an area and the Council’s housing land supply situation, the cumulative public benefits of the proposed scheme attract moderate weight.

Great weight should be given to the conservation of designated heritage assets. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Roundham & Paignton Harbour Conservation Area. However, as outlined in this report, it is considered that the proposed development would preserve the character and appearance of the Roundham & Paignton Harbour Conservation Area and would have a neutral impact on its significance as a designated heritage asset.

The public benefits in the form of the economic and social benefits include the economic growth and associated economic benefits to the construction industry from the proposed development, the proposal would also result in additional disposable income from the occupants. The proposal would provide housing where there is a lack of 5 year housing land supply, and this would be located within a sustainable location. Other matters that weigh in favour include a landscaping and drainage scheme and the proposal promotes low carbon and energy efficiency measures in the building construction and promotion of electric vehicle charging points and bicycle storage.

### **Conclusions and Reasons for Decision**

The relevant legislation requires that the application be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

In terms of material considerations, the provision of 10no. residential units, is a significant public benefit in favour of the development where national guidance seeks to significantly boost the supply of homes. The weight afforded housing supply is not insignificant where the most recent Housing Delivery Test (December 2023) for Torbay was published as 55% (i.e. between 2019-22 there were only 55% as many completions as the number of homes required), and Torbay's most recent housing land supply (Appeal reference APP/X1165/W/24/3354507 – June 2025) is that there is 1.72 years, which is a significant shortfall.

In terms of other matters that weigh in the developments favour there will be economic benefits through construction phase in terms of created jobs, and post construction in terms of local household spend within the local economy.

In-line with the above conclusions and the assessment within this report, the proposals are considered to be in principle accordance with the provisions of the Development Plan and to demonstrate that an acceptable scheme could be accommodated on the site. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable planning conditions and the unilateral undertaking to secure the recreational impact mitigation payment.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay. For housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, the NPPF guides to granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development proposed or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (10no. residential units), when assessed against the policies in the NPPF when taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Subject to the recommended planning conditions and the unilateral undertaking, the application of policies in the NPPF that protect areas or assets of particular importance do not provide a strong reason for refusing the development proposed and there are no adverse impacts of doing so that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

### **Officer Recommendation**

Approval: subject to;

1. The completion of a unilateral undertaking.
2. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

### **Planning Conditions**

#### **1. External Materials**

Notwithstanding the approved plans, prior to their installation, technical details and/or samples of the proposed exterior materials including wall finishes, roofing materials, openings, eaves, fascias and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority.

The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## 2. Boundary Treatments

Notwithstanding the approved plans and details, prior to the first occupation of the development hereby approved, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, the approved boundary treatment shall be maintained and retained for the life of the development.

Reason: To ensure a satisfactory completion of development in the interests of visual and residential amenity and to protect the privacy of future and neighbouring occupants in accordance with Policies DE1, SS10 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## 3. Bicycle Storage

Prior to the first occupation of the development hereby approved, the bicycle storage detailed on approved plan (ref: '167-PA-P32 (Bicycle Provision)', received 3<sup>rd</sup> September 2025) shall be installed and made available for use. Once provided, the agreed storage arrangements shall be retained as such for the lifetime of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

## 4. Bin Storage

Prior to the first occupation of the development hereby approved, the bin storage area detailed on approved plans (refs: '167-PA-P17 (Parking Level)', received 2<sup>nd</sup> May 2025 and '167-PA-P19 (Waste Storage - Plot 6)', received 16<sup>th</sup> July 2025) shall be installed and made available for use. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policies W1 and DE1 of the Adopted Torbay Local Plan 2012-2030.

## 5. Waste Management Plan

Prior to the first occupation of the development a Waste Management Plan (WMP) for the building, setting out recycling and waste collections methods which follow the waste hierarchy to ensure locally established recycling targets at the that time are met, together with measures to review and respond to evolving targets, shall be submitted to and approved in writing by the Local Planning Authority. The approved WMP shall be implemented prior to the first occupation of the building and maintained at all times thereafter as a working document and strategy for the lifetime of the development.

Reason: To ensure that the private waste collection strategy for the apartment building, which will not receive waste collection from the local authority due to the location within a building, accords with locally established recycling rates, to accord with Policies W1 and W2 of the Adopted Torbay Local Plan 2012-2030.

#### 6. Electric Vehicle Charging Points

Notwithstanding the approved plans and details, prior to the occupation of the development hereby approved, a scheme for the insertion of 1no. electrical charging point per dwelling to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The agreed electrical charging point shall be thereafter maintained and retained for the lifetime of the development.

Reason: To ensure the parking provision of the new residential units is in accordance with the requirements of Planning Policy TA1, TA3 and Appendix F of the Adopted Torbay Local Plan 2012-2030

#### 7. Parking Provision

The residential units hereby approved shall not be occupied or brought into use until the parking areas as detailed on approved plan (ref: '167-PA-P31 (Parking Provision)', received 3<sup>rd</sup> September 2025), have been provided in full and are available for use. Once provided the parking spaces shall be retained as parking associated with the development for the lifetime of the development.

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

#### 8. Road Management and Maintenance Plan

No properties shall be occupied unless the Local Planning Authority has approved a Road Maintenance Plan for that road including the arrangements for the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the road and refuse collection and emergency vehicle access throughout the lifetime of the development.

Where it is proposed that the estate roads shall be privately maintained, no properties shall be occupied unless a Private Road Management Scheme has been submitted to and approved in writing by the Local Planning Authority and which shall provide for:

- a) Setting up a company or other entity to be responsible for the on-going management and maintenance of the road, refuse collection, and public access for all units excluding Unit 6 that is served directly off the existing public highway (the "Management Body").
- b) How the company and the future management and maintenance of the road and refuse collection is to be financed including initial capital investment with subsequent funding.

- c) The rights for and obligations on the Management Company to manage and maintain the road and collect refuse.
- d) Arrangements for the management and collection of refuse and waste from the dwellings.
- e) A road management and maintenance and refuse collection schedule.
- f) How refuse and waste will be managed on site including the location of individual refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.
- g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.
- h) The ongoing maintenance and management of any communal lighting illuminating any part of the access road and surface water drainage systems.
- i) An action plan which specifically covers road maintenance and management of access where potholes or subsidence arise.

The development shall be carried out in accordance with the approved Road Maintenance Plan and the approved Private Road Access Scheme which shall thereafter be fully complied with and implemented.

No dwelling shall be occupied unless it connects directly to a road (including a footway and carriageway) which is:

- a) Adopted, or subject to an agreement by the highway authority as a highway maintainable at the public expense; or
- b) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense shall be permanently maintained to an adoptable standard and retained and made available for public use in perpetuity.

Reason: To provide safe and sustainable access to the site for drivers, cyclists and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Adopted Torbay Local Plan 2012-2030.

## 9. Designing Out Crime

Notwithstanding the approved plans and details, prior to the first use of the development hereby approved, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

Reason: In the interests of crime prevention in accordance with Policy DE1 and SS11 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(g) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## 10. Vegetation Clearance

No vegetation clearance or demolition works shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the works will not disturb nesting birds and a record of this kept.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the advice contained within the National Planning Policy Framework.

#### 11. Ecology Report

The development shall proceed, and shall be retained thereafter, in full accordance with the mitigation and enhancement measures contained within the approved Ecological Impact Assessment (ref: '2513-EcIA-SE (Bat & Bird Survey)', received 2<sup>nd</sup> May 2025).

1no. compensatory night roost will be provided in advance of the demolition of the existing pool house. 5no. integrated bird nest boxes, 5no. integrated bat boxes and 5no. bee/insect bricks shall be installed across the site prior to first occupation of the development hereby approved in accordance with approved plan '2513-EcIA-F2' contained within the approved Ecological Impact Assessment (ref: '2513-EcIA-SE (Bat & Bird Survey)', received 2<sup>nd</sup> May 2025). The compensatory night roost, bird boxes, bat boxes and bee/insect bricks shall be retained as such thereafter.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

#### 12. External Lighting

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

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

#### 13. Surface Water Drainage

The development shall proceed in full accordance with the approved drainage details and drainage strategy and shall be fully implemented prior to the occupation of the development hereby approved. 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 in order to accord with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030,

Policy PNP1(i) of the Adopted Paignton Neighbourhood Plan 2012-2030, and the guidance contained in the National Planning Policy Framework.

#### 14. Energy and Sustainability

The development hereby approved shall incorporate the energy efficiency measures, renewable energy, sustainable design principles, water conservation and climate change adaptation measures into the design and construction of the development in full accordance with the approved Energy and Sustainability Statement (ref: 'P2025-0253-3 (Energy Sustainability)', received 2<sup>nd</sup> May 2025). Such measures shall be incorporated and/or installed prior to the first occupation of the development hereby approved.

A site-wide saving of a 63% reduction in carbon dioxide emissions in line with the energy hierarchy shall also be achieved, unless otherwise agreed in writing by the Local Planning Authority.

Prior to the first occupation of the development hereby approved, details of the solar panels and Air Source Heat Pump systems shall be submitted to and approved in writing to the Local Planning Authority. Details shall include exact location, technical specification and projected annual energy yield (kWh/year) e.g. a copy of the MCS installer's certificate. A calculation showing that the projected annual yield of the installed system is sufficient to meet at least 20% of the site's total energy demand.

Reason: To ensure the development incorporates measures to minimise the effects of and can adapt to a changing climate and to meet Policy SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(f) of the Adopted Paignton Neighbourhood Plan 2012-2030.

#### 15. Construction Method Statement

The development shall proceed in full accordance with the approved Construction Method Statement (ref: 'XX', received XX XX 2025). The 'Ecological Considerations' contained within the approved Construction Method Statement shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction and demolition works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses, in the interests of highway safety, and to prevent ecological harm, in accordance with Policies NC1, TA1, TA2 and DE3 of the Adopted Torbay Local Plan 2012-2030.

#### 16. Construction Traffic Management Plan

The development shall proceed in full accordance with the submitted and approved Construction Traffic Management Plan (ref: 'XX', received XX XX 2025).

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction and demolition works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of highway safety in accordance with Policies TA1, TA2 and DE3 of the Adopted Torbay Local Plan 2012-2030.

#### 17. Soft Landscaping

All soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of a similar size and the same species.

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

#### 18. Hard Landscaping

Notwithstanding the approved plans, prior to the first occupation of the development hereby approved, a scheme of hard landscaping shall be fully installed in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The hard landscaping scheme shall include the following details:

- a) Surfacing materials, including access roadways, drives, parking, turning, patios and paths,
- b) Drainage details for any impermeable surfaces, and
- c) A detailed programme of implementation.

Once provided, the approved boundary treatment shall be maintained and retained for the life of the development.

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

#### 19. External Amenity Spaces

The development hereby approved shall not be occupied or brought into use until the outdoor amenity spaces, including balconies, detailed on the approved plan (ref: '167-PA-P33 (Amenity Spaces)', received 3<sup>rd</sup> September 2025) have been provided in full. The outdoor amenity spaces and balconies shall thereafter be maintained and retained for the use of the development's occupiers for the life of the development.

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

## 20. Removal of Permitted Development Rights Schedule 2, Part 2, Class A

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 2, Class A, no other means of enclosures shall be erected within the external areas of this development, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## 21. Obscure Glazing – Plot 6

Prior to the first occupation of the Plot 6 hereby approved, the first floor open living space and second floor en-suite windows in the eastern flank elevation of the development shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. These windows shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition for the lifetime of the development.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

## 22. Privacy Screens – Plot 6

Prior to the approved balconies being brought into use on Plot 6, 1.8m high obscure glazed privacy screens (to a minimum of Pilkington Level 4 or similar standard) shall be erected on Plot 6's balconies eastern sides, and shall be maintained and retained as such for the lifetime of the development. The height of the privacy screens is measured from the finished floor level of the balcony.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

## 23. Contamination

In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

Reason: For the protection of controlled waters from contaminated discovered during demolition or construction and in the interests of public health and the natural environment in accordance with Policy ER3 of the Adopted Torbay Local Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

### **Informative(s)**

#### **Positive and Proactive**

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.

#### **Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information provided to determine the application this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

#### **Surface Water Highway**

Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway.

### **Relevant Policies**

#### **Development Plan Relevant Policies**

C4 - Trees, Hedgerows and Natural Landscape Features  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ES1 - Energy  
H1 - Applications for New Homes  
NC1 - Biodiversity and Geodiversity

SS1 - Growth Strategy for a Prosperous Torbay  
SS3 - Presumption in Favour of Sustainable Development  
SS10 - Conservation and the Historic Environment  
SS11 - Sustainable Communities  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
SS14 - Low Carbon Development and Adaption to Climate Change  
TA1 - Transport and Accessibility  
TA2 - Development Access  
TA3 - Parking Requirements  
W1 - Waste Hierarchy

PNP1(c) - Design Principles  
PNP1(d) - Residential Development  
PNP1(f) - Towards a Sustainable Low Carbon Energy Efficient Economy  
PNP1(g) - Designing Out Crime  
PNP1(i) - Surface Water