

Application Site Address	Pannier Market Union Square Market Street Torquay
Proposal	Demolition and associated works to adjoining structures to south and west elevations of Pannier Market including removal of internal fixtures. Formation of arched openings and new emergency escape doors to south and west elevations.
Application Number	P/2025/0164
Applicant	Willmott Dixon Construction Ltd
Agent	Turley
Date Application Valid	09/04/2025
Decision Due date	04/06/2025
Extension of Time Date	
Recommendation	<p>Approval subject to:</p> <ol style="list-style-type: none"> 1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency. 2. Receiving a consultation response from Natural England to confirm no objection to the Council's Appropriate Assessment. 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	Listed Building Consent that accompanies P/2025/0173 which is a major planning application.
Planning Case Officer	Emily Elliott

Location Plan



Site Details

The Pannier Market (also known as 'Torquay Market') was built in 1852 and was altered in 1865 to incorporate shops. Further alterations took place in 1909.

The building is designated with a Grade II Listed status. This site is also located:

- Within Torquay Town Centre
- Within Torquay Town Centre Community Investment Area
- Within 15 metres of Upton Conservation Area
- Adjacent to The Old Sessions House (Grade II listed building)
- Within Flood Zone 1, Critical Drainage Area, and an area susceptible to surface water flooding

Historic England's Listing Entry (List Entry Number: 1206800) notes:

"Pannier market. 1852 to the designs of John Tapley Harvey; contractor Richard Gosling, for a private company. Front altered in 1865 to incorporate shops. Alterations of 1909. Local grey limestone rubble (now painted) on a rock-faced plinth. Classical style. PLAN: 12-bay market hall, divided axially by a central arcade of cast-iron columns. Entrance from Market Street into long side, further entrance at north from Albert Road. EXTERIOR: Symmetrical 13-bay front to Market Street with a central entrance, the outer 3 bays at each end slightly set back. Bays divided by Doric pilasters, rising from plinth and paired on either side of the main

doorway and every 3 bays. Round-headed doorway with vermiculated rustication and a pedimented gable; pair of fine cast-iron gates with spear-head finials and a band of roundels. Bays contain segmental-headed openings with rusticated architraves, keystones and lunettes with radial glazing bars to the heads. The right return (Albert Road) has 2 pedimented gables with paired Doric pilasters to left and right and 4 pilasters with moulded capitals and an entablature in the centre. Segmental-headed doorway to right-hand bay, similar doorway converted to window to left bay. Road sign, blue tiles with white lettering, fixed to wall: reads TORQUAY ALBERT ROAD. INTERIOR: Cast-iron columns have pierced spandrels. King-post roof truss have princess posts with struts. Struts to posts iron, connected to timber rafters with shoes. (Buildings of England: Pevsner N: Devon: London: 1952-1989: P.854).”

Description of Development

This application for Listed Building Consent proposes the demolition and associated works to adjoining structures to the south and west elevations of the Pannier Market including the removal of internal fixtures. The proposal includes the formation of arched openings and new emergency escape doors to south and west elevations of the Pannier Market.

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 Torquay Neighbourhood Plan 2012-2030 ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG);
- Published Standing Advice;
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990; 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

- P/2025/0173: Partial demolition of existing shopping centre, demolition of 9 no. commercial units fronting on Union Street and Market Street and partial demolition of modern additions to Pannier Market. Redevelopment of site to provide residential development with associated amenity space, creation of new Class E commercial unit, repurposing of retained shopping centre floorspace sited below multistorey car park for Class E uses and associated external alterations, external works to Pannier Market, creation of public square and associated development infrastructure. Pending consideration.

- P/2006/0164: Internal Alterations To Form New Mezzanine Level And Shop Units. Approved 08/03/2006.
- P/2003/0073: Alterations To Shop Front And Formation Of Ramp For Disabled Persons. Approved 24/02/2003.

Summary of Representations

1no. letter of representation, 4no. letters of support and 13no. letters of objection have been received. It should be noted that the 13no. letters of objection are from the Torbay Heritage Trust.

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

Comments in support include:

- Impact on local area
- It provides facilities
- It removes an eyesore
- It's shown in the Local Plan
- Provides/retains jobs
- Makes highways matters better
- It provides houses
- Residential amenity
- Sets precedent
- Makes tourist facilities better

Concerns include:

- Impact on adjacent conservation areas
- Design/visual impact
- Impact on heritage assets

Summary of Consultation Responses

Historic England (updated response received 14th July 2025):

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We strongly recommend that you seek the views of your specialist conservation and archaeological advisers.

Historic England (original response received 1st May 2025):

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We strongly recommend that you seek the views of your specialist conservation and archaeological advisers.

Historic Buildings and Places (response received 8th May 2025):

HB&P have no objections to the principle of the alterations to the Pannier Market and the separation of the building from the development to the rear will enable the building to once again be appreciated as a single structure, as it was originally constructed. We are content to defer to the advice of your conservation team to secure the necessary details and materials.

While HB&P acknowledge the benefit to the setting of Pannier Market by the demolition of the rear buildings and the creation of the new town square, the proposed development facing Union Street lacks architectural ambition and undermines that objective. Despite the discussion in the design statement on pages 36 to 41 about the design evolution and taking cues from fenestration patterns, etc, the end design looks not dissimilar to many a standard student housing scheme across the country. It is out of scale with the surrounding development – which is a transition area between the conservation areas – and has little relationship to the surrounding built form or local character, which affects the established streetscape and setting around the market. This is a clear case where Chapter 12 of the NPPF should be applied and the applicant asked to ensure the design reflects paragraph 135, which states (with our underlined emphasis):

135. Planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- (f) 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 51 ; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. There is a real opportunity to improve this part of Torquay and re-establish the role of Pannier Market as a key local destination and a more appropriate and considered architectural solution is needed to ensure this development results in a genuine long-term benefit and wider regeneration of Torquay.

Torbay Council's Conservation and Urban Design Officer (updated response received 14th August 2025):

This response must be read in conjunction to the response previously provided and interpreted as an update as additional information and revised plans have been provided by the applicant.

The submission of further details has addressed the previous lack of clear and convincing justification where harmful works would be carried out and has provided a sounder evidence base, having also provided reasoned analysis of other buildings within this typology.

Whilst indicative details have been provided regarding the proposed formation openings, this appears in the most part to relate solely to the West (rear) elevation. It is not currently clear if this is also the intended approach for the larger openings to be formed within the South elevation, as due to their scale these would likely require additional structural work and an alternative approach. The indicative detail is considered to lack the required quality and requires refinement, given the level of designation of the building. This could be resolved by the imposition of conditions.

Further discussions have been held regarding the proposed painting of the building to resolve initial concerns, and the proposed approach is acceptable, and would present a more neutral and traditional appearance when compared to the existing hues of blue

Conclusions:

The previous discrepancies in the plans have been addressed and further information has been provided to establish the impacts of the proposal as required previously.

The assumption of the worst-case scenario, in that no openings currently exist in the elevations to be altered remains the only appropriate starting position in light of not having undertaken the investigative works required to fully understand the implications of the proposed works. A more detailed understanding of the building and its typology has been provided in recognition of the “worst-case-scenario” approach which remains.

The removal of the existing later extensions is likely to better reveal the building’s significance resulting in significant enhancements. However, it is also likely to unearth a host of design challenges, as the building appears not to be fully understood at this stage. This may impact the ability to implement future aspirational proposals which are likely to be beneficial to the wider scheme. The proposed openings in both the South and West elevations would represent a considerable loss of historic fabric dating from the building’s original construction. The resulting harm would be caused to its architectural, historic values and evidential values and its significance. The level of harm has been minor reduced by the provision of justification and clarification

I consider the proposed works would result in less than substantial harm, to a minor to moderate degree. This level of harm must be weighed against the public benefits of the proposal.

It remains vital to ensure that the phasing of the wider scheme is carefully considered to ensure that the justification put forward by the applicant for the harmful works can truly be realised. The justification of better integrating the building with the proposed public space has limited relevance at this stage and is more appropriate to be considered as part of the planning application made concurrently.

This conclusion has been reached with special regard/attention to the desirability of preserving and/or enhancing heritage assets or their setting in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990.

I note the determination of this application is likely to be a finely balanced decision and without prejudice to the above comments, I would recommend that if you are minded to grant consent then the following conditions are necessary.

Recommended conditions:

- Schedule of works (inc. repairs) and timetable for removal and works of reinstatement. This should include investigative works, repair and re-instatement of internal features where relevant.
- Demolition Method Statement
- Expert supervision
- Hidden historic features.
- Stone/masonry cleaning.
- Building recording.
- Matching details.
- New services
- Removal of redundant infrastructure/services.
- Submission of details following demolition.
- New openings.
- Joinery details
- Fire escapes
- Phasing.

Torbay Council's Conservation and Urban Design Officer (response received 9th May 2025):

Impacts on the Pannier Market

External:

SOUTH.

- Removal of attached buildings is welcomed. Further details relating to the methods to be used are recommended to be secured. The inclusion of two new large round headed openings within the newly revealed South Gable, re-orientating the building, will significantly impact its historic and architectural values. There is also an evident lack of detail of how these openings will be formed and detailed. Whilst the removal of the existing attached structures and extensions would result in enhancements, the new openings in the South gable would result in harm to a moderate degree.
- Elevation to be painted white above the plinth. Similarly applied to all other elevations. No current reference or understanding of original colour(s) if they existed at all. A change from blue is welcomed but painting over the rubble stone inset pieces is not ideal. Recommend that the stonework should have its existing painted finish removed and the necessary repairs to pointing carried out where necessary. It may be appropriate for the pilasters and other details to receive paint as accents if there is evidence. Exposed render is the likely historic situation. Where existing, exposed stonework should be revealed rather than painted.

WEST.

- New alterations to the West elevation lack detail with regards to the formation. These are significant invasive alterations considering the size and location of existing openings and the alternative locations/ aperture sizes proposed. Again, a lack of joinery details. Whilst the removal of the existing attached structures and extensions would result in enhancements, the new openings in this elevation would result in harm to a moderate degree.
- The proposed interventions would not be limited to those absolutely necessary, with a new access door provided in isolation. Whilst the removal of the extensions to this elevation are welcomed, further details are required to adequately assess if the proposed works in their entirety would be acceptable.
- Recommend reconsideration of the fenestration to remove avoidable interventions. Joinery details to be secured upfront or by suitably worded and phased condition.

EAST.

- Whilst the existing shopfront are not an original feature, they do provide evidence of the evolution of the building. The proposal indicates opportunities to enhance the special interest of the building. However, no details are provided to substantiate this, and these are understood to potentially be included at a later stage in a subsequent application for listed building consent. No weight can therefore be given to these elements within this current application until such a point such details are provided.

NORTH.

- From reviewing the submitted documents, it is understood that an existing opening is to be infilled with blockwork. No further details have been provided at this stage. No assessment has been provided within the submitted heritage statement on this element. Further information and justification are required if this is to be included as this would clearly be harmful.

ROOF.

- It is currently unclear if the proposal involves the replacement of the roof. The removal of the internal suspended ceiling would reveal the roof structure allowing it to be appreciated which can be seen as a measurable enhancement. The existing roof covering is not original nor is it of historic value. The underside of the existing corrugated covering has been sprayed with a foam covering which would be exposed when the suspended ceiling is removed.
- Whilst removing the internal suspended ceiling and revealing the roof structure would lead to some enhancements, further clarification is required regarding the roof and any associated works. Recommend the roof covering is replaced at this stage to address this.

Internal:

- The proposed internal alterations are generally positive, removing many poor-quality modern elements. As above, the removal of the suspended ceiling will reveal the underside of the existing roof covering which, upon inspection, is covered in spray applied foam. There is currently significant lack of detail regarding how this is to be handled. Recommend the replacement of the roof covering is reviewed and considered as part of this initial stage to address this.

- It is not currently evident why the mezzanine would not be removed in its entirety if the ambition is to remove the modern internal additions. Further clarification and justification are required to understand this choice.
- New FE stairs. Shown in the D&AS and HS but not on the proposed plans. Consistency across all the plans is essential and this must be addressed immediately. Their locations and the implications of these creating additional clear that the resulting harm has been reduced to a minimum.

Conclusions:

The application appears to be prematurely submitted and requires revisions and further information to fully understand the implications of the proposal. There are also discrepancies in the submitted plans and information, and these must be resolved as a matter of urgency.

The application description is distinctly different to the quantity of works shown on the submitted drawings. Whilst it is useful to understand the “aspirational” elements of this building, this will be considered separately in subsequent applications for listed building consent. It is therefore not appropriate for these future works to be so heavily relied upon in the overall assessment of the impacts of this specific listed building consent application. For clarity, the available documents should be reduced to those which are relevant in the determination of the works which require listed building consent, and they must also be consistent with those submitted as part of the planning application. There appears to be discrepancies between the two, particularly regarding the shopfronts.

The assumption of the worst-case scenario, in that no openings currently exist in the elevations to be altered is the only appropriate starting position in light of not having undertaken the investigative works required to fully understand the implications of the proposed works. Whilst it may be the only possible starting position in light of the absence of information in terms of an assessment, it does not negate the requirement for further information to be submitted. A more detailed understanding of the building and its typology is required if this approach is to be taken.

The removal of the existing later extensions is likely to better reveal the building’s significance resulting in significant enhancements. However, it is also likely to unearth a host of design challenges, as the building appears not to be fully understood at this stage. This may impact the ability to implement future aspirational proposals which are likely to be beneficial to the wider scheme. The proposed openings in both the South and West elevations would represent a considerable loss of historic fabric dating from the building’s original construction. The resulting harm would be caused to its architectural, historic values and evidential values and its significance.

The submitted assessment does not quantify the resulting harm or enhancements that in their view the proposal would deliver, it is stated simply that “the harmful impacts are balanced by the benefits” and that the proposal sustains the significance of the Market. An exact balance is unlikely.

I consider the proposed works would result in less than substantial harm to a moderate degree. This level of harm does not appear to have been reduced to a minimum, consistent with achieving the objective.

Currently there is lack of clear and convincing justification in the form of detailed evidence base and understanding of the building given the extent/scale of the proposed demolition and the interventions proposed. Further to this, there is a clear absence of relevant details and understanding of the building from a structural point of view. Given the invasive nature of the works involved further details are necessary. A more thorough heritage statement is required that focusses on the Pannier Market and the LBC works contained within this application rather than one that seeks to satisfy the details of the concurrent planning application. At the very least a desk-based study and analysis of other pannier markets located in Devon is required to inform this proposal. Without a more detailed evidence base the proposed justification is inadequate.

It is vital to ensure that the phasing of the wider scheme is carefully considered to ensure that the justification put forward by the applicant for the harmful works can truly be realised. As without this, the harmful works, assuming further evidence is provided, lack any real tangible justification. The justification of better integrating the building with the proposed public space has limited relevance at this stage and is more appropriate to be considered as part of the planning application made concurrently.

In its current form, whilst the proposal would deliver some heritage benefits, however, the harmful works have not been clearly and convincingly justified as required by para 213 of the NPPF.

I recommend that the application is not determined until further information has been provided as above to provide the justification necessary and to resolve the concerns raised above. Conditions to be discussed following the receipt of additional information.

This conclusion has been reached with special regard/attention to the desirability of preserving and/or enhancing heritage assets or their setting in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Officer Assessment

Key Issues/Material Considerations

Impact on Heritage and Design

The National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. In addition, it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 Design of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy SS10 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. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and

its setting, or any features of special architectural or historic interest which it possesses. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy TH10 of the Neighbourhood Plan outlines that alterations to listed buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. In doing so, proposals which at the same time contribute to providing a sustainable economic future for such buildings will be particularly supported.

Significance:

The submitted heritage statement is considered to appropriately assess the heritage significance of the Pannier Market, its setting and its contribution to other designated heritage assets in its context.

The significance of the Pannier Market is mainly comprised of its historic, evidential and architectural values. Overall, the building is considered to be of medium significance.

The proposal has been through a pre-application enquiry and Torbay Design Review Panel, the proposal responds to the advice provided at each stage. The works which require planning permission form part of a larger regeneration proposal for the redevelopment of the wider Union Square Shopping Centre site (ref: P/2025/0173).

The proposal has been supported by further details to address the previous lack of clear and convincing justification where harmful works would be carried out, the applicant has also provided a sounder evidence base and reasoned analysis of other buildings within the same typology. The overarching aim of this proposal is the retention and sustainable re-use of the Pannier Market which is a key element of the wider regeneration scheme which is for the redevelopment of the Union Square Shopping Centre to provide residential development with associated amenity space, creation of a new Class E commercial unit, repurposing of retained shopping centre floorspace sited below multistorey car park for Class E uses and the creation of public square, associated development infrastructure and associated works.

The supporting Heritage Impact Assessment Addendum provides a list of proposed external and internal works to the Pannier Market that would assist in the wider regeneration project that is the redevelopment of the Union Square Shopping Centre. In terms of items currently forming part of this application requiring listed building consent, these can be considered to be:

The proposed external works would include:

- Demolition of attached structures to the Pannier Market.
- All elevations which have existing painted areas of stonework are to be re-painted in white. No areas of stonework that are currently unpainted will be painted or otherwise treated.
- On the southern elevation there will be the creation of 2no. arched openings placed centrally in either gable and 2no. single, fire escape door openings.
- On the west elevation the existing ground floor openings will be infilled and the creation of 5no. arched window openings and 1no. single fire escape door opening.
- No proposed changes to the North and East Elevations.

- On the south and west elevations there will be a programme of repairs, to make good any areas revealed by the removal of the later adjoining buildings.
- On the west elevation, in relation to the ground floor, large sections of historic fabric have previously been removed so works to this elevation will also include some re-building to make good those areas.

The proposed internal works would include:

- Ground floor - Removal of modern retail units (including stud partitions), ceilings, doors and unit frontages, as well as a modern staircase and glazed lift enclosure on the southern elevation.
- First floor – Removal of partitions to modern units along the west side of the building, and modern partitions to the east side of the building. Removal of the modern suspended ceiling.
- No works to the roof are proposed at present. It is understood that the underside of the roof covering, which is a modern replacement, is covered with insulating foam.
- The existing mezzanine structure is being retained at this stage.
- Installation of 2no. new fire escape staircases and a lift.

Regarding matters requiring planning permission, these matters will be assessed as part of the accompanying planning application (P/2025/0173).

External Works:

- Demolition of attached structures to the Pannier Market. The building has been extended and extensively altered over time. This is particularly relevant for the south and the west elevations, which are currently obscured by later, modern structures, of no heritage significance, which means their current condition is unclear. To ensure a robust assessment of the potential impacts on the significance of this asset, the assessment assumes that there are no historic or modern openings within the west elevation and none to the north elevation above the first floor level. Such represents a 'worst case' scenario, whereby the result of the assessments following the demolition are likely to mean a reduction in potential impacts on the listed building's significance. Planning conditions will be employed to secure an appropriate method statement.
- All elevations which have existing painted areas of stonework are to be re-painted in white. No areas of stonework that are currently unpainted will be painted or otherwise treated. Elevations are to be painted white above the plinth. The current blue paint is not original. A planning condition will be employed to ensure careful removal of the existing painted finish and pointing and repairs where necessary. A planning condition will also be employed to secure the colour and extent of the paintwork. Further evidence is required of the likely historic finish of the building.
- On the southern elevation there will be the creation of 2no. arched openings placed centrally in either gable and 2no. single fire escape door openings. The supporting Heritage Impact Assessment outlines that there is no evidence of historic openings in this elevation and therefore the proposed works would result in harm to a moderate degree of harm. A planning condition will be employed to secure joinery details and a phasing plan.
- On the west elevation the existing ground floor openings will be infilled and there will be the creation of 5no. arched window openings and 1no. single fire escape door opening.

The proposed new openings would result in harm to a moderate degree of harm. A planning condition will be employed to secure joinery details and a phasing plan.

- On the south and west elevations there will be a programme of repairs, to make good any areas revealed by the removal of the later adjoining buildings, such will be secured through a suitably worded planning condition.
- On the west elevation, in relation to the ground floor, large sections of historic fabric have previously been removed so works to this elevation will also include some re-building to make good those areas. A planning condition will be employed for the making good works.

Internal Works:

- Ground floor – The removal of the modern retail units (including stud partitions), ceilings, doors and unit frontages, as well as a modern staircase and glazed lift enclosure on the southern elevation are considered to be generally positive as it will remove many poor-quality elements.
- First floor – Removal of partitions to modern units along the west side of the building, and modern partitions to the east side of the building are considered to be generally positive as it will remove many poor-quality elements. The proposal includes the removal of the modern suspended ceiling. The removal of the suspended ceiling, which was added during a phase of refurbishment in 2006, does not contribute to the significance of the listed building. The aspects of the Pannier Market that contribute to its special architectural and historic interest internally include its flagstone floor, its cast-iron columns with pierced spandrels, and its roof structure which are to be retained. At present, the market's roof structure is not visible to visitors to the market due to the suspended ceiling, which has eroded the appreciation of its original spatial qualities and created an appearance that detracts from the listed building's significance. The removal of the suspended ceiling, while revealing the poor quality of the treatment of the underside of the roof covering, will, together with the removal of other modern internal fittings, allow for a better appreciation of the historic spatial qualities of the building and its function as a Pannier Market.
- No works to the roof are proposed at present. The Council's Conservation and Urban Design Officer undertook a site visit and noted that the removal of the suspended ceiling will reveal the underside of the existing roof covering which, upon inspection, is covered in spray applied foam. The removal of the modern suspended ceiling will expose the underside of the roof to view but this work is needed to enable more detailed inspections of the roof structure to be undertaken to inform the detailed design of future works.
- The existing mezzanine structure is being retained at this stage.
- Installation of 2no. new fire escape staircases and a lift. The existing escape strategy from the vacant first-floor café space has a route that runs through an internal stair, which exits onto Market Street, via the adjoining ground-floor door. Retaining this existing strategy would necessitate a visually intrusive stair enclosure behind the new windows, undermining the formal character of this elevation. To avoid this scenario and deliver a better integrated and considered approach, a new vertical circulation core is proposed within the new unit to the south, replicating the arrangement to the north in the existing market hall. The proposed southern escape doors are aligned with those on the north elevation, maintaining a consistent approach. The core will include a stair and lift to provide a compliant escape from the first floor, without interfering with the visual integrity of the façade. This design concept ensures that the circulation and escape strategy is consistent through the building, from north to the south. By replicating this rhythm of

access and escape doors, the intervention is not only functional but reinforces the existing language of the building. At present, escape from the mezzanine level is via a later rear extension that is to be demolished under the proposals. Due to floor level differences between the mezzanine and the southern café space, and the requirement for protected, direct egress to the exterior, a dedicated escape stair is necessary. The proposed stair is positioned on the west elevation, serving both mezzanine and ground floor levels. This location responds to the level changes along the newly created pedestrian access route to the west, allowing a safe and compliant means of escape from both levels of the market hall that respects both internal circulation requirements and external levels. Although symmetry with the north-south arrangement is not achievable here due to building regulations constraints, the intervention has been carefully placed to avoid disruption to the Market Street frontage. The new opening is modest and appropriately scaled, responding directly to internal functional needs while limiting visual impact on the building's primary elevations. The 2no. new fire escape staircases have been located and designed to reduce any physical and visual impacts on the interior of the building. These works are justified in terms of their requirement under Part B of the Building Regulations. The proposed fire door openings have been designed to have minimal impact on the existing building. The introduction is solely to satisfy critical building regulation requirements. The designs have been informed by internal circulation needs, existing architectural language, and external site levels. The fire doors are carefully located to minimise any impacts on the Torquay Market's heritage significance and are designed to balance the demands of life safety with the conservation of the building's heritage significance and future usability. The insertion of the fire escape door would result in a limited level of harm to the significance of the building, deriving from the loss of a modest amount of historic fabric and a slight erosion in the ability to appreciate the original form and use of the market. The creation of the internal fire escape staircases would also result in a very slight erosion in the ability to appreciate the historic form and spaciousness of the interior of the market. These impacts have been reduced through the careful design and siting of these interventions to minimise their visual and physical impacts.

Harm:

The proposed openings in both the south and west elevations of the Pannier Market would represent a considerable loss of historic fabric dating from the building's original construction. The resulting harm would be caused to its architectural, historic values and evidential values and its significance. The Council's Conservation and Urban Design Officer considers that the proposed works would result in less than substantial harm, to a minor to moderate degree. This level of harm must be weighed against the public benefits of the proposal.

It remains vital to ensure that the phasing of the wider scheme is carefully considered to ensure that the justification put forward by the applicant for the harmful works can truly be realised. The justification of better integrating the building with the proposed public space has limited relevance at this stage and is more appropriate to be considered as part of the planning application (ref: P/2025/0173) made concurrently.

For clarity, the proposal is considered to result in minor to moderate less than substantial harm to the Pannier Market.

Paragraph 213 of the NPPF states that:

"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional."*

Justification:

Historic England Principles, Policies and Guidance regarding integrating conservation with other public interests, identifies that harm should have been reduced to the minimum whilst being consistent with achieving the objective. The proposed works seek to modify the internal and external fabric of the building, as the building has been extended and extensively altered over time. The existing extensions to the southern and western elevations of the building are modern, later additions with no heritage value. The existing extensions date from the late 1970s and early 1980s, that are of non-descript quality and character which fail to align with the overall architectural quality of the listed building and its significance. The removal of the existing extensions will better reveal the significance of the building and will enable the building to once again be a free standing building as originally intended.

The proposed openings in both the south and west elevations of the Pannier Market would represent a considerable loss of historic fabric dating from the building's original construction. There is no evidence of historic openings in these elevations.

In terms of the southern elevation, upper parts of this elevation are exposed, it can be seen that it mirrors the north elevation, confirmed by the 1971 aerial photograph, where the same eight pilaster design can be seen. The proposal will retain this architectural design and will include 2no. tall openings being set centrally and symmetrically within each gable. These works will require the removal of some historic fabric, however, the level of harm will in part be offset by better revealing this elevation and by contributing to the restoration of the original detached setting of the asset.

The west elevation has been heavily altered to provide interconnections with the Union Square Shopping Centre, which has resulted in the removal of much historic fabric at ground floor level. The proposed 5no. arched openings to the west elevation would in part be formed within the areas of the elevation that is proposed to be rebuilt and as such would not result in the removal of historic fabric, the upper parts would be within the existing historic elevation and, as such, would result in targeted interventions into historic fabric. Again, there is no evidence at present to suggest that there were, historically, openings in this elevation.

The applicant has provided an Addendum to their Heritage Impact Assessment stating that the proposed arched openings are intended to ensure that the Pannier Market is fully integrated into the new open space within the wider proposed regeneration scheme, and to facilitate and encourage a greater level of accessibility, which will support the sustainable ongoing use of the listed building which is part of its historic value and contribution to heritage significance. The impact of these proposed works has been reduced by the careful design and location of these openings, retaining the symmetry and formal character of the building and highlighting the newly revealed elevation that engages with the new public realm, which

is more closely aligned with its historic spatial character. The simple form of the openings and the detailing would ensure that the openings are legible as harmonious, contemporary interventions.

The removal of modern fittings, including the suspended ceiling, stud partitions, ceilings, doors and unit frontages would not result in any harm to the significance of the heritage asset. These elements were added during a phase of refurbishment in 2006 and do not contribute to the significance of the listed building.

The insertion of fire escape doors is to avoid the existing strategy causing a visually intrusive stair enclosure behind the new openings. The new southern escape doors are aligned with those on the north elevation, which maintain a consistent approach. The core will include a stair and lift to provide compliant fire escape from the first floor, without interfering with the visual integrity of the façade. This design concept ensures that the circulation and escape strategy is consistent through the building, from north to the south. By replicating this rhythm of access and escape doors, the intervention is not only functional but reinforces the existing language of the building. The existing fire escape from the mezzanine level it via the existing extension which is proposed to be demolished through the current proposal. Given the finished floor levels between the mezzanine and the existing southern café space, there is not direct egress and therefore an additional fire escape staircase is necessary. The 2no. new fire escape staircases have been located and designed to reduce any physical and visual impacts on the interior of the building. These works are justified in terms of their requirement under Part B of the Building Regulations.

Whilst the inclusion of enhancements and improvements do not give right to harmful changes, it is necessary to balance the overall impacts and assess the heritage implications of the proposal and establish if there would be any change in the significance of the building and to establish the degree of any change that may occur.

Paragraph 215 of the NPPF states that:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

In balancing the aspects of proposal, and their impact on the heritage values of the building, the proposal has been identified to result in a minor level of less than substantial harm resulting from the new openings in the south and west elevations of the listed building. The proposal is considered to result in a minor impact on the significance of the building. This impact has been reduced from moderate to minor given the positive heritage enhancements the proposal would deliver from the demolition of the existing ad hoc extensions to the listed building. In this regard, there is considered to be a negligible degree of change in the significance of the building.

However, based on the restorative benefits of the scheme and the investment proposed into the wider regeneration scheme for the Union Square Shopping Centre, the building will be able to maintain its continued optimum viable use as a Pannier Market, along with the associated social and economic benefits there is deemed to be a significant public benefit to outweigh the identified minor to moderate level of less than substantial harm.

As such, the proposal is considered to comply with Policies DE1, SS10 and HE1 of the Local Plan, Policies TH8 and TH10 of the Neighbourhood Plan and the guidance contained within the NPPF.

Impact on Ecology

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.

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Neighbourhood Plan outlines that the development of new homes, or a new commercial property or business premises of any class, on an unallocated site that could have an impact on a protected species or habitat must provide, as appropriate, an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

The application has been supported by an Ecological Appraisal. The application site is entirely urban, with very few opportunities for habitats and protected species.

The applicant has provided full survey results in relation to bats which confirmed “*Five small, common pipistrelle day roosts were present within buildings east of the main Union Square Shopping Centre entrance off Union Street (rear of buildings occupied by ‘Nexus Games’ and ‘Costa’). These are all small, seasonal roosts of low conservation status.*”. The Ecologist has confirmed that subject to the mitigation requirements outlined, they are satisfied that Natural England are likely to grant a licence.

The applicant has also provided further information in relation to nesting birds. Four herring gull nests were confirmed on the roof top of the application site. The Ecologist has noted that whilst the effects of the proposals on birds are not significant, dealing with herring gull and other bird nests on urban building demolitions can cause issues for developments if not properly considered, therefore a nesting bird mitigation plan planning condition is recommended.

The Local Plan Habitat Regulations Assessment (HRA) and Neighbourhood Plan HRA screen in a Likely Significant Effect on the Lyme Bay & Torbay Marine Special Area of Conservation (SAC) from the potential impact of the future growth areas on water quality. Policy W5 of the Local Plan outlines what is required to satisfy a conclusion of no adverse effect on the integrity of the Lyme Bay & Torbay Marine SAC. The South Hams Greater Horseshoe Bat SAC is located approximately 8km from the application site. The main urban areas of Torquay that includes the application site, are outside of the SAC consultation zones. A Likely Significant Effect as a result of the proposed development on the SAC can be screened out in the HRA.

The Ecologist has reviewed: the applicant’s Shadow HRA: Test of Likely Significant Effects and Appropriate Assessment, which was submitted to address the Ecologist’s initial

comments with regards to the potential effects of the development on Lyme Bay & Torbay Marine SAC due to changes to Water Quality. The Ecologist was satisfied with the submitted Shadow HRA: Test of Likely Significant Effects and Appropriate Assessment and on behalf of Torbay Council as the Appropriate Authority under the Habitats Regulations has adopted the document as the Council's HRA. As an Appropriate Assessment was conducted as part of the HRA, Natural England have been consulted on the HRA. An update will be provided to Members at Planning Committee regarding Natural England's response.

Devon County Council's Principal Ecologist has been consulted on the application and raises no objections subject to the recommended planning conditions found at the end of this report which relate to bat mitigation measures and a Nesting Bird Mitigation Plan.

Subject to the aforementioned planning conditions, the proposed development is considered to accord with Policies NC1 and W5 of the Local Plan, Policy TE5 of the Neighbourhood Plan and the guidance contained within the NPPF.

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

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil

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:

The Local Plan Habitat Regulations Assessment (HRA) and Neighbourhood Plan HRA screen in a Likely Significant Effect on the Lyme Bay & Torbay Marine Special Area of Conservation (SAC) from the potential impact of the future growth areas on water quality. Policy W5 of the Local Plan outlines what is required to satisfy a conclusion of no adverse effect on the integrity of the Lyme Bay & Torbay Marine SAC.

Devon County Council's Ecologist on behalf of Torbay Council as the Appropriate Authority under the Habitats Regulations has adopted the applicant's Shadow HRA: Test of Likely Significant Effects and Appropriate Assessment document as the Council's HRA. As an Appropriate Assessment was conducted as part of the HRA, Natural England have been consulted on the HRA. An update will be provided to Members at Planning Committee regarding Natural England's response.

Conclusion

The proposal is considered to be acceptable, having regard to the Development Plan, and all other material considerations.

This conclusion has been reached with special regard/attention to the desirability of preserving and/or enhancing heritage assets or their setting in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990.

Officer Recommendation

Approval: subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
2. Receiving a consultation response from Natural England to confirm no objection to the Council's Appropriate Assessment.
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. Schedule of Works**

Prior to any works being undertaken, a detailed schedule of works (including repair works) and a timetable for removal and works of reinstatement, including investigative works, methods and materials to repair and re-instate internal features where relevant, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

This is a pre-commencement condition because the works comprising the development have the potential to harm retained architectural features and therefore these details need to be agreed before work commences.

2. Demolition Method Statement

Prior to the commencement (including demolition) of works hereby approved, details of the method of demolition have been submitted to and approved in writing by the Local Planning Authority. The demolition of the extensions adjoining the southern and western elevations of the building shall be carried out in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

3. Expert Supervision

Prior to the commencement of works the details of the appropriately qualified professional specialising in conservation work who will supervise the hereby approved works of alteration and demolition shall be submitted to and agreed in writing by the Local Planning Authority. The works shall then be supervised for the full duration of the works by the agreed suitably qualified professional.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

This is a pre-commencement condition because the works comprising the development have the potential to harm retained architectural features and therefore these details need to be agreed before work commences.

4. Hidden Historic Features

During the works, if hidden historic features are revealed they should be retained in-situ. Works shall be halted in the relevant area of the building and the Local Planning Authority should be notified immediately. Failure to do so may result in unauthorised works being carried out and an offence being committed.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the

Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

5. Stone Cleaning

No work shall commence on the stone cleaning across any elevation, until a sample panel has been provided in situ to establish the final parameters of the stone cleaning and this sample panel shall be agreed in writing by the Local Planning Authority. The approved panel shall be kept on site for reference until the development is completed. The work shall only be carried out in accordance with the approved sample panel.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

6. Masonry Cleaning & Painting

No cleaning of masonry, other than low pressure (20-100 psi) surface cleaning using a nebulous water spray is authorised by this consent without the prior approval of the Local Planning Authority. Before cleaning work begins, any other cleaning proposals must be submitted and approved in writing by the Local Planning Authority and then carried out strictly in accordance with those details.

Prior to any new internal and external painting, a detailed specification of any paint to be used on the building shall be submitted to and approved in writing by the Local Planning Authority and then carried out strictly in accordance with those details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

7. Building Recording

Prior to the commencement of any works, an appropriate programme of historic building recording and analysis shall be secured and implemented in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030 and Paragraph 211 of the National Planning Policy Framework, that an appropriate record is made of the historic building fabric that may be affected by the development.

This is a pre-commencement condition because the works comprising the development have the potential to harm retained architectural features and therefore these details need to be agreed before work commences.

8. Submission of Details Following Demolition

Prior to forming any new opening following the demolition of the extensions on the southern and western elevations of Block D as identified on the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025) along with the investigative works, details and evidence of any historic openings shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Any details and evidence approved by the Local Planning Authority pertaining to Condition 8 shall be thereafter included as an appendix to the building record as required by Condition 7 of this consent.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

9. Matching Details

All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless the alternative details are first submitted to and approved in writing by the Local Planning Authority. Any alternative method which is agreed shall be strictly adhered to.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

10. New Services

Prior to the installation of any new services, the position, type and method of installation of all new and relocated services and related fixtures (for the avoidance of doubt this includes communications and information technology servicing), shall be specified and agreed in writing with the Local Planning Authority wherever these installations are to be visible, or where ducts or other methods of concealment are proposed. The works shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

11. Removal of Redundant Infrastructure/Services

Prior to the first use of the development hereby approved, all redundant infrastructure associated with the former use of the building shall have been removed from the exterior of the building. For the avoidance of doubt this includes communications and information technology servicing, alarms, lighting, security cameras, soil pipes, flues, ducting, vents and air handling/conditioning units.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

12. Window and Door Details

Notwithstanding the approved plans and details, prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

13. Joinery Details

No piece of external joinery shall be installed or undertaken unless full details of that piece have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour. The works shall be carried out in accordance with the approved details and shall be retained thereafter.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

14. Fire Escapes

Prior to the installation of any new fire escape door, details of how the new openings will be fixed to the existing fabric shall be submitted to and approved in writing by the Local

Planning Authority. The installation of the new fire escape doors shall be undertaken in strict accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

15. Phasing

Prior to the commencement of development, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall set out the phases of the development and how the development will be implemented in relation to an agreed timetable of works.

The development shall be carried out in strict accordance with approved phasing plan.

Reason: To ensure the development is constructed in a timely manner and satisfactorily completed to meet the requirements of the Adopted Torbay Local Plan 2012-2030.

This needs to be a pre-commencement condition to ensure that development is constructed in a timely manner from the outset of development.

16. Assurance of Build

No demolition shall take place until arrangements, including a contract for carrying out of works, have been put in place to secure the redevelopment of the site permitted under planning permission reference P/2025/0173 and details of these arrangements have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall include details of the timescale for carrying out the redevelopment approved under planning permission reference P/2025/0173 and the development approved under this permission.

Reason: To ensure that the character and appearance of the area is not prejudiced and to safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policies DE1 and HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policies TH8 and TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

17. Bat Mitigation Measures

All demolition and construction activities must comply with the bat mitigation measures detailed in paragraphs 5.1 to 5.12 of the approved Bat Survey Report (ref: 'P20250173-15 (Bat & Bird Survey)', received 5th August 2025), unless otherwise agreed with Natural England through the bat mitigation licensing process. No licensable works affecting bats or their roosts may begin until a bat mitigation licence has been issued by Natural England. If circumstances change and a bat licence is no longer required where one was

previously deemed necessary, written confirmation must be obtained from the Local Planning Authority before any such works commence.

Reason: To ensure the protection of bats and their roosts, which are legally protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017.

18. Nesting Bird Mitigation Plan

Prior to the commencement of any demolition works, a Nesting Bird Mitigation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall thereafter be implemented in full thereafter.

Reason: To safeguard nesting gulls and other urban species protected under the Wildlife and Countryside Act 1981 (as amended).

This is a pre-commencement condition because the works comprising the development have the potential to harm nesting birds and therefore these details need to be agreed before work commences.

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.

Relevant Policies

Development Plan Relevant Policies

DE1 - Design
HE1 - Listed Buildings
NC1 - Biodiversity and Biodiversity
SS10 - Conservation and the Historic Environment
TE5 - Protected Species Habitats and Biodiversity
TH8 - Established Architecture
TH10 - Protection of the Historic Built Environment
W5 - Waste Water Disposal