

Application Site Address	Union Square Shopping Centre & Pannier Market Union Square Torquay
Proposal	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 and works.
Application Number	P/2025/0173
Applicant	Willmott Dixon Construction Ltd
Agent	Turley
Date Application Valid	29.04.2025
Decision Due date	29.07.2025
Extension of Time Date	26.09.2025
Recommendation	Approval subject to: <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. Completion of a Section 106 agreement. 3. Receiving a consultation response from Natural England to confirm no objection to the Council's Appropriate Assessment. 4. 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, Union Square Shopping Centre, Union Street, Torquay, comprises of several elements including the Union Square Shopping Centre, which is an existing shopping centre situated within Torquay Town Centre. Within the Shopping Centre there are several commercial units fronting Union Street, this element of the Shopping Centre has a fixed canopy to provide passersby and customers with protection from the weather. A handful of existing retailers remain operating within the Shopping Centre including Greggs, Iceland, Peacocks, Specsavers, The Entertainer and F Hinds jewellers. Torbay Council purchased Union Square Shopping Centre in 2022. The Shopping Centre can be accessed by pedestrians on both Union Street and Market Street, with the service access being provided from Castle Lane next to the Union Square Multi-Storey Car Park access lane from a raised service deck at first floor level.

The site also includes Union Square Multi-Storey Car Park, which is within Torbay Council's ownership. The Multi-Storey Car Park is connected to the Union Square Shopping Centre. The ground floor of the Multi-Storey Car Park remains vacant after the closure of Wilko in 2023. The Multi-Storey Car Park provides long stay pay and display parking (7:30-19:00) and has 397no. parking spaces, including 16no. disabled parking spaces, 9no. parent and child parking spaces, and 2no. motorcycle parking spaces.

The site also includes existing retail buildings fronting onto Union Street and turning the corner onto Market Street, currently occupied by Costa Coffee and Nationwide Building Society. Torbay Council have acquired several of these units and are in discussions with occupiers regarding the remaining units.

The site extends along Market Street and includes the Torquay Pannier Market. The Pannier Market is a Grade II listed building, which is not currently within the ownership of Torbay Council. The Pannier Market has an internal mezzanine floor and individual retailing spaces within the building, of which some retailers have shopfronts directly onto Market Street, whilst others are accessed internally within the Pannier Market.

The site is located within several designations:

- Torquay Town Centre (Policy TC1 of the Local Plan)
- Torquay Primary Shopping Area (Policy TC2 of the Local Plan)
- Torquay Town Centre Community Investment Area (Policy SS11 of the Local Plan)
- Torquay Strategic Delivery Area (Policy SS1 of the Local Plan)
- Adjacent to several Conservation Areas (Upton, Abbey Road, Torquay Harbour and Warberries)
- Includes Grade II Torquay Pannier Market (List Entry Number - 1206800)
- At high risk from surface water flooding ([Flood risk summary - Check your long term flood risk - GOV.UK](#))
- The majority of the site is within Flood Zone 1, with a section of the site being within Flood Zone 3. The site is also within a Critical Drainage Area.

Description of Development

This is a full planning application for the partial demolition of the existing Union Square Shopping Centre, the demolition of 9 no. commercial units fronting on Union Street and Market Street and the partial demolition of modern additions to the Pannier Market. The proposal is for the redevelopment of the application site to provide residential development (99no. units) with associated amenity space, the creation of a new Class E commercial unit (approximately 100 square metres), the repurposing of the retained shopping centre floorspace sited below the existing Union Square Multi-Storey Car Park (MSCP) for Class E uses and associated external alterations, external works to Pannier Market, creation of a public square and associated development infrastructure and works.

The proposal comprises of 4no. distinct blocks of built form:

- Block A – Five-storey mixed use building fronting Union Street, featuring a ground floor commercial unit and 85no. residential flats.
- Block B – Two-storey Mews style building positioned parallel to the Pannier Market, which includes 14no. residential flats.
- Block C – Existing Union Square Multi-Storey Car Park (MSCP), will maintain existing 451no. car parking spaces and provide 4no. new commercial units across the ground and first floors within former Union Square Shopping Centre floorspace.
- Block D – Pannier Market, Grade II listed building, which the proposal seeks the restoration and reopening of the market building.

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;
- 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

Extensive planning history relating to the application site, most noteworthy are the following:

- P/2025/0164: 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. Pending consideration.
- DE/2024/0060: Redevelopment of Union Square. Pre-application response 13/03/2025.
- Design West Review Panel – Attended 04/11/2024, report provided and can be found in Appendix 1 of the supporting Planning Statement.
- 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.
- P/1989/1372: Alterations And Improvements And Formation Of Glazed Roof Between Haldon Centre And 75 Union Street. Approved 13/09/1989.

Summary of Representations

6 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:

- Impact on the local area.
- Not in keeping with the local area.
- Lack of green space.
- Sets precedent.
- Noise.
- Overdevelopment.
- Design/visual impact.
- Active/sustainable travel infrastructure
- Impact on town centre.

Summary of Consultation Responses

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

Torquay Neighbourhood Forum (Updated response dated 24/07/2025):

The Forum strongly supports the principle of this development in providing much needed housing, and restoration of the Pannier Market. The proposal is development of a Brownfield site, and the Forum is pleased to see an on-site provision of 20% Affordable Housing. As this is a Council-led development, further increasing the level of Affordable Housing would help meet the current shortfall.

In our Consultee Response dated 29 May 2025, the Forum expressed major concerns about the design. In view of this, Martin Tressider from Milligan and the Architect, Terry Morley, attended a Steering Group Meeting to discuss our concerns. They shared Computer Generated Images (CGI) of the buildings, and these showed them to be less out of keeping and dominant than is apparent from the Plans included on the Planning Portal. Nevertheless, some members of the Steering Group continue to have concerns, but the majority can accept the design. We suggest that the Planning Committee members should review the overall design for themselves, and come to individual conclusions. It would be appropriate for there to be a Condition to review and approve the final finishing materials. The attached Policy Checklist has been updated, and shows compliance with many of the Development Policies.

The wider cycling infrastructure remains a concern, but we recognize that, being a Torbay Council development, there will be no Section 106 or CIL contributions. But the Forum requests that a condition be added to the effect that if the development is sold to a private developer then Section 106 contributions will be applied. In order to fulfil the objectives of the Local Cycling and Walking Infrastructure Plan, Torbay Council needs to develop and find funding for a plan to bring cycling infrastructure in the immediate vicinity of Union Square up to safe, modern standards, connecting the site to both the Harbourside and Castle Circus.

In conclusion, the Forum can now support the Application.

Torquay Neighbourhood Forum (Original response dated 29/05/2025):

The Forum strongly supports the principle of this development in providing much needed housing, and restoration of the Pannier Market. The attached Policy Checklist shows compliance with many of the Development Policies. The proposal is development of a Brownfield site, and the Forum is pleased to see an on-site provision of 20% Affordable Housing.

However the Forum has major concerns about the design. The Forum has developed a checklist to assess compliance of Planning Applications with the Torbay Local Development Framework 2005-2026 Urban Design Guide. The attached checklist shows that the proposed Blocks A and B are in conflict with the recommendations in the Design Guide. The building has an Eastern European, post-war reconstruction appearance, and we consider this is out of context with the buildings in Torquay Town Centre. In addition, at 5 storeys, Block A will be very dominant.

The Transport Assessment indicates that the residential units are 'car-free'. It is not clear what that means. Although the development is within easy walking distance of shops and other facilities, and is on bus routes, some residents may require a car for employment purposes. Given the multi-storey car park, Block C, is being retained, it would be logical to assign some spaces for use by residents. For cycling, the provision of cycle storage is welcomed and appropriate, but Figure 31 shows no connection from the site to the various cycle routes in Torquay. In order to fulfil the objectives of the Local Cycling and Walking Infrastructure Plan, the developer must commit, for example via a Section 106 contribution, to bringing cycling infrastructure in the immediate vicinity up to safe, modern standards, connecting the site to both the Harbourside and Castle Circus.

In conclusion, given our concerns, the Forum cannot support this Application as it stands. If our concerns could be addressed, the Forum would support this Planning Application.

Torbay Council's Principal Strategy & Project Management Officer (response dated 30/06/2025):**Principle of Development**

The regeneration of town centre areas is very strongly supported in the existing Local Plan. Policies SDT1, SDT2 and TC1 of the Adopted Torbay Local Plan provide a broad framework for these areas. From a policy perspective, achieving a successful redevelopment of the area is strongly supported by the development plan.

Policy SDT1(table 6) seeks to provide at least 824 dwellings in the town centre.

Policy SDT1 Torquay states that:

“Torquay is and will remain the primary commercial centre of Torbay. Harbourside and town centre sites will be developed for appropriate mixed uses, and the re-use of space within buildings for residential accommodation will be supported. The urban areas will be improved and renewed, with strong support for family homes. Regeneration, comprehensive redevelopment and large scale investment will ensure that the town centre and Torquay Harbour areas evolve as the principal town centre and the centrepiece of a modern, prosperous and sustainable Torbay, whilst conserving or enhancing the historic and natural environment”.

Policy SDT2 Torquay Town Centre and Harbour states that:

“Torquay Town Centre will develop as the largest retail and leisure centre of the Bay and become the key sub-regional retail and leisure destination. This will help provide an improved, vibrant and more enjoyable shopping and leisure environment with better high street retail, eating and leisure facilities. Furthermore, regeneration of key sites will help strengthen its role as a commercial and social centre for residents and visitors, whilst conserving or enhancing the area’s historic character and environmental value. Developments within Torquay Town Centre and Harbour areas should comprise a mix of suitable town centre uses and help to increase substantially the numbers of town centre homes during the Plan period”.

Policy TC1 also supports town centre regeneration. Both Union Street and Albert Road running through Union square are primary shopping area and frontage (with the caveat that the NPPF does not refer to retail frontages). Market Street is secondary frontage.

The principle of housing in the town centre is supported by Policies SS3, SS12, SS13 and H1 of the Local Plan.

Policy TS4 of the Torquay Neighbourhood Plan also supports the prioritisation of brownfield land for housing.

On that basis, the principle of mixed-use housing-led regeneration is, in principle, in accordance with the development plan and Paragraph 11(c) of the Presumption applies. However, I note that development plans contain policies which pull in different directions and that the proposal raises complicated issues in relation to flooding, design, heritage, offsite contributions etc. In this context it is worth spelling out the relevance of the Presumption in Favour of Sustainable Development to the proposal.

The 2024 NPPF places great emphasis upon the delivery of housing, and especially affordable housing. Torbay Council currently has just over 1.7 years housing land supply as measured according to the 2024 NPPF. This is a serious shortfall and paragraph 11(d) must therefore be applied. At the recent Copythorne Road appeal, the inspector gave “very substantial weight” to the delivery of market and affordable homes. As an urban brownfield site, at least that level of weight must be given to the delivery of homes. Chapter 11 of the Framework, (especially but not limited to paragraphs 125 (c), 128, and 129) also provide a strong policy directive to maximise the use of brownfield housing opportunities.

The proposed details for Union Square indicate about 100 apartments. This is somewhat fewer than in earlier discussions, and less than the circa 250 that were consulted on in the Local Plan Housing Site Options Consultation (2022). However, I note that the proposal is for 5-storeys of residential buildings, and that there are viability and deliverability problems with taller buildings, due to additional fire safety requirements. From a policy position, I would support a much taller building in this location in order to boost housing numbers , but I understand that there are viability and deliverability constraints (and paragraph 129 b of the framework acknowledges that viability considerations may limit the scope of development). However, the design should only be reduced in size through the planning process if there are very NPPF Footnote 7 “strong reasons”, or “tilted balance” reasons for so doing.

The proposal will deliver at least 20% affordable housing in accordance with Policy H2 of the Local Plan. This carries additional weight in Paragraph 11(d)(ii) of the framework. I note that Alex Rehaag has provided separate housing comments, as supports the proposed emphasis on smaller dwellings, given the profile of Torbay's need. The 20% affordable housing should not be regarded as a maximum, should it be possible to increase provision through non-S106 route or contributions from elsewhere. If this is the case, then a range of tenures should be provided to ensure a mixed and balanced community. My colleagues in Housing can advise further on this.

Retail Impact

I note that objections have been raised to the proposal on grounds of loss of retail space within Torquay town centre, both in quantitative terms (loss of circa 8,000 sq.m. of trading space) and qualitative terms in terms of the loss of a convenience store in the primary retail area. De Pol Associated have raised a concern about the loss of Iceland from Union Square. I have sought to address this issue below in relation to convenience need generally rather than a specific supermarket.

Union Street and the Union Square area (formerly Albert Road) are identified as primary shopping frontage and primary shopping area in the Adopted Local Plan. As indicated in my comments on the pre-application, is an element of tension with policyTC4 of the Local Plan. However, the Local Plan's strategy must be regarded as out of date, in particular with regard to the need to maximise residential opportunities. The Local Plan was drafted to allow flexibility of use within main town centre uses and recognises opportunities to provide housing and commercial use (TC1 etc.) and the quantum of housing that is needed is larger than that indicated in the Local Plan. The Local Plan pre-dates the creation of the overarching Class E which represents a sea change in town centre planning to allow flexibility over a wide range of commercial uses in town centres. On this basis, the current units including Iceland could change to a range of non-retail uses without the need for planning permission (and indeed without constituting development). This makes it much harder to require retail only frontages even in primary areas, in recognition of the wider commercial and residential role that town centres must now play.

Torbay has a recent (2022) Retail Study, carried out by Avison Young. Evidence Base and Monitoring - Torbay Council The retail study assessed Torquay Town Centre's health. It noted that 26.8% of Torquay town centre floorspace was vacant, compared to the national average of 16.1% (table 4.3). It notes (4.31):

"A key concern will be the continued loss of retailing market share and turnover in the town centre. Whilst all town centres are facing similar challenges, this is trend which has continued for some time in Torquay and highlights why the Council will need to consider the main role of the town centre going forwards (and the need to diversify its offer). – A related part of this issue is the continued high number / proportion of vacancies in the town centre, which well above the national average".

It is worth noting that the retail study does see Union Street as a focus for retail, but does note the need to evolve the function of the town centre.

"We consider that Torquay's town centre boundary remains reflective of the concentration of 'main centre land uses' across the different character areas of the centre, ranging from the

concentration of retail / shopping uses on Union Street, heading southwards along Fleet Street towards the seafront / harbour. In relation to the primary shopping area, this is currently tightly drawn and it is notable that there are also, beyond the existing defined area, a large number of retail uses along Fleet Street. However, given the evolving function of the town centre, national trends in retail and service uses, along with the need to attract a wider mix of uses to underpin the health of Torquay town centre, we do not recommend any changes to the existing primary shopping area boundary”.

However, Torquay town centre is very elongated, stretching from Castle Circus to Torwood Street, and there is an argument to condense the area, and focus retail activity more towards the heart of the town centre.

The Retail Study identifies a need for 2,386 sq. m of convenience (foodstore), between zero and up to 2142 sq. m of comparison, and 3,129 sq. m of food and drink (restaurants etc) in **Torquay** over the next 10 years (or technically 2022-23).

Qualitatively, Torquay town centre is not very well served for convenience stores (food retail) with small Tesco's at Post Office Roundabout and another at castle Circus (outside of the town centre boundary), and Iceland in Union Square. In my view, we do have to acknowledge that the loss of Iceland would be a negative impact of the scheme. I have previously urged my colleagues in the regeneration team to seek to provide or identify suitable alternative provision for the uses currently in Union Square.

Castle Circus/Lymington Road has previously been proposed as a suitable location for a food store (currently proposed as mixed use development TNPE4 and TNPH21) and the updated Local Plan may need to reconsider this, although it would be at the further extremity of the town centre.

The loss of retail store within Union Square must be weighed up against other regeneration benefits and the impact that additional uses and employment will bring to revitalising the town centre. This will also have a significant economic value and will hopefully create a virtuous circle to unlock future regeneration in the town centre. In my view the regeneration benefits, and additional town centre spending will outweigh the impact of the loss of Iceland.

S106 Obligations

I note that the application is potentially CIL liable from any market dwellings. It will be important that the liability is agreed prior to commencement of works. As a CIL liable development, the council would not currently seek wider offsite “sustainable development” contributions (4.1.2 of the SPD). However, the proposal will introduce significant additional town centre living and it will be essential to create an improved town centre living environment and improve access by walking and cycling to other town centre facilities (especially as noted above, the town is not well served for convenience retail). These should focus on improving the living environment and sustainable transport opportunities in the town centre. Highways have provided a detailed assessment of these and in my view, they should be seen as a site deliverability matter.

The scope for wider “offsite” sustainability and green Infrastructure contributions is likely to be limited. Although the provision of green areas within the development should be pursued

to help provide outdoor amenity/ recreation areas for residents , and can also provide a sustainable drainage benefit.

Other Issues

Union Street does face flooding issues (the Union Street frontage of the application is within Flood Zone 3 but the majority of the site is Flood Zone 1), and I note that the Environment Agency has raised concerns. The applicant has submitted a sequential and exceptions test. In sequential terms, it may be possible to locate the specific development on other sites with lower flood risk. However it will not be possible for Torbay to meet its development needs, and especially housing needs, without developing sites such as Union Square or those with a similar or higher level of “footnote 7” constraints. The proposal will achieve significant sustainability benefits to the community. However, it will of course be necessary to show that development will be safe for its lifetime, taking into account the introduction of residential uses, and taking account of matters such as climate change. The application should show how it is seeking to reduce flood risk elsewhere e.g. by seeking to provide as much permeable surface as possible.

The application also raises significant design, heritage and living-quality considerations. Policies SS10, DE1-DE4 of the Local Plan are relevant, and although “out of date” these issues are still capable of carrying significant weight. In relation to natural daylight, Paragraph 130 of the Framework does advise flexibility so long as schemes provide “acceptable living standards”. The street scene, heritage and other matters are detailed Development Management issues,

I hope that the above is of assistance. From a policy perspective, the proposal is strongly supported in principle. However, I note that there are many detailed matters that must be considered. Please do not hesitate to contact me if you would like to discuss any of these in more detail, or if I have missed anything.

Torbay Council’s Senior Environmental Health Officer (response dated 13/05/2024):

Noise

Please could the following conditions be included in any consent? (If the developer would prefer to be able to discharge the first of these in stages, the condition could be re-worded to allow for that).

- Prior to commencement of any construction (excluding demolition and site clearance) of the development hereby approved an Acoustic Insulation Implementation and Verification Plan shall be submitted and approved in writing by the Local Planning Authority. This plan shall include details of the insulation to be installed and describe how the installation shall be tested so as to demonstrate the achievement of suitable internal noise levels. Prior to the occupation of the development hereby approved an Acoustic Installation Verification Report shall be submitted. This report shall document the successful completion of the acoustic insulation work and post installation testing.

Reason: To protect the amenity of those living in the new development.

- Cumulative noise from all building services plant and equipment shall not exceed a rating noise level of 41dB (07:00 to 23:00) and 37dB (23:00 to 07:00) (measured in accordance with BS4142) at 1m from the façade of any noise sensitive receptor.

Reason: To protect the amenity of those living nearby.

- The class E uses hereby permitted, including within the pannier market, shall not operate outside the hours of 07:00 to 23:00.

Reason: To protect the amenity of those living nearby.

Contaminated Land

The report submitted with the application recommends that further, intrusive investigation is carried out. In order to manage this, the following condition is proposed.

Please could this be included on any consent?

- No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The building(s) shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

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

The submitted report also considers geo-technical matters, such as quarry slope stability and foundation design. It may be prudent to discuss these matters with the Building Regulations team to identify whether they place constraints on the development as proposed.

Air Quality

Because the development is not expected to result in a net increase of traffic compared to the existing baseline, then no air quality impact assessment is required for the operational development. (Although see proposed conditions below relating to commercial kitchen extraction and construction phase impacts).

However any opportunities for the development to benefit air quality and sustainable transport more widely would be welcomed, for example making secure cycle parking and shower facilities available to those living or working nearby who do not currently have access to these.

Nuisance Light Spill

It is not expected that the 'street lighting' elements of the lighting scheme are likely to result in nuisance light spill, however any security lighting, service yard lighting etc may do. This includes the impact of lights from the car park which may affect the new residential units nearby.

Please could any consent include the following condition, requiring this to be assessed? (if the developer would prefer to be able to discharge this condition in phases, it would be possible to word the condition to permit this). Please note that this assessment is to consider nuisance light spill, NOT the impact of the proposed lighting scheme on visual amenity.

- Prior to the commencement of the development an assessment of the impact of all external lighting associated with the development shall be submitted to and approved in writing by the Local Planning Authority. The assessment should address the impact of nuisance light spill (including hours of use of the lights) on the nearest receptors. Thereafter the lighting shall be installed and maintained in accordance with the specifications within the assessment.

Reason: to prevent nuisance light spill.

ASB and Community Safety

The development must aid and not hinder the ability for CCTV to monitor the area and should be designed to reduce anti-social behaviour. The advice from the police about Designing Out Crime is supported. Further advice from the Council's CCTV operators should also be sought, if it has not already been so.

CEMP

Please could the following condition be included on any consent?

- No development (including ground works) or vegetation clearance works shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Statement shall describe the actions that will be taken to protect the amenity of the locality, especially for people living and/or working nearby. It shall include as a minimum provisions for:
 - Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
 - A noise and vibration management plan, including details of quantitative monitoring of noise and/or vibration to be conducted.
 - All plant and equipment based at the site to use white noise reversing alarms or a banksman unless agreed otherwise in writing in the CEMP.
 - No driven piling without prior written consent from the LPA.
 - A detailed proactive and reactive dust management plan, including details of quantitative monitoring of dust emissions.
 - No emissions of dust beyond the site boundary so as to cause harm to amenity of the locality.
 - No burning on site during construction or site preparation works.
 - All non-road mobile machinery (NRMM) based at the site shall be of at least stage IIIB emission standard (or higher if stage IIB has not been defined for the type of machinery) unless agreed otherwise in writing in the CEMP.
 - The site access point(s) of all vehicles to the site during the construction phase.
 - The areas for loading and unloading plant and materials.
 - The location of the site compound and details of how power will be provided to the compound (use of a generator overnight will not normally be considered acceptable).
 - The location of storage areas for plant and materials. This should include the location of stockpiles of topsoil and sub soil.
 - The erection and maintenance of securing hoarding, if appropriate. (Hoarding is to be kept free of fly posting and graffiti).
 - Arrangements for communication and liaison with local residents, including regular letter drops and a dedicated contact number for complaints.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

Commercial Kitchen Extraction Systems

Please could the following condition be included on any consent? The developer should be aware that fitting suitable smoke/grease/odour control systems into the historic pannier market may require particular thought, early in the design process.

- Before the commencement of use of any commercial kitchen within the development, a scheme for the installation of equipment to control the emission of fumes and smell from that kitchen shall be submitted to, and approved in writing by the local planning authority. The approved scheme shall be implemented in full and maintained in operation thereafter.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

Food Safety

Please could an informative be added to any consent as follows?

- Although not matters contained within the scope of this application, the applicant should be advised to contact the Food Safety team (Food safety - Torbay Council) in order to ensure that the following items will comply with all relevant legislation, British Standards and guidance:
 - Food safety issues - design and layout of the kitchens including fixtures, fittings, storage and ventilation.
 - Refuse storage provision.
 - Adequate provision of WCs.

Active Travel England (response dated 02/05/2025):

Active Travel England has determined that standing advice should be issued and would encourage the local planning authority to consider this as part of its assessment of the application. Our standing advice can be found here:

<https://www.gov.uk/government/publications/active-travel-england-sustainable-development-advice-notes>

Torbay Council's Climate Strategy & Project Officer (response dated 30/05/2025):

- I welcome the applicant's submission of an energy statement that proposes a low carbon, climate resilient approach and in the completion of the LPA's Sustainability Checklist within the appendices of the energy statement.
- I note the proposal to install a solar PV array to offset the energy consumption of Block A, which I welcome. However, I note that there wasn't a proposal for solar PV to be installed on the block B roof? I only note this due to the opportunity to further offset the energy consumption for Block B and support the efficiency of the communal heating system that has been proposed.
- The Governments Future Homes Standard (FHS) is set to be introduced in 2025, which will require mandatory compliance. The FHS aims to significantly reduce carbon emissions in new homes, requiring a 75-80% reduction in carbon emissions compared to those new homes built under current regulations (Building Regulations Part L). The aim is to improve energy efficiency and reduce the environmental impact of housing by

ensuring new homes use low carbon technology such as very high-quality building fabric (structural materials, insulation etc.), triple glazing standards and low-carbon heating through heat pumps.

- I welcome the consideration of the embodied carbon of the residential sections under the principles of the UK Net Zero Carbon Buildings Standard (UKNZCBS). Note that these standards are voluntary and not required under current planning policies however, schemes which follow these standards will be given greater weight in terms of decision making and meeting the requirements of policy ES1.

I suggest the following condition (or similarly worded);

The applicant must provide a detailed energy and sustainability statements at the reserved matter stage(s). The statement will need to outline in detail the proposals that have been delivered to meet Policy SS14 and ES1 of the Local Plan. Drawing out specifically how the site;

1. Conserves energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling;
2. Uses energy efficiently within the fabric of the buildings;
3. Uses on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

As a key part of delivering environmental sustainability in a holistic manner, this statement should also include the consideration of construction methods and materials, design, water consumption, waste management, travel planning and carbon offsetting.

Reason: To meet policies SS14 and ES1 of the Torbay Local Plan.

Devon & Somerset Fire and Rescue's Fire Safety Inspector (response dated 19/05/2025):

As the proposal will be subject to Building Regulations and the Regulatory Reform (Fire Safety) Order 2005, a statutory consultation will be undertaken between the Building Control Body and the Fire Authority.

Under this process, the proposal must comply with the functional requirements of Approved Document B of the Building Regulations, to include access requirements for Fire Service Vehicles (B5). These include Vehicle Access, including minimum road widths, turning facilities for fire service vehicles and maximum reversing distances of 20 meters.

In addition, the provision of appropriate water supplies for firefighting (Street Hydrants) including appropriate flow rates will need to be achieved. Information on this should be sourced from the National Guidance document on the provision of water for firefighting (3rd Edition; Jan 2007).

NHS Devon Integrated Care Board (ICB) & Torbay and South Devon NHS Foundation Trust (response dated 15/07/2025):

Torbay and South Devon NHS Foundation Trust and NHS Devon ICB welcomes the opportunity to comment on the planning application for the proposed redevelopment of Union Square in Torquay. We are pleased to offer our support for the scheme, which we believe will

deliver significant benefits to the health and wellbeing of our local communities and play a key role in the regeneration of the town centre.

We strongly support the proposal to include a GP surgery within the development as access to high-quality, local primary care is essential for improving health outcomes and supporting our ambition to provide more care closer to home. Locating a GP practice in such a central, accessible location will not only enhance convenience for patients but also help to reduce pressure on other parts of the health and care system.

We see real potential for the Union Square development to support the wider transformation of local health and care services by providing modern, flexible accommodation that could accommodate integrated primary and community-based health and wellbeing services. This aligns with our strategic goals and those of the Integrated Care System and government to bring care into the heart of our communities.

As plans evolve we would welcome the opportunity to continue working with the Council and development partners to explore how any future needs of the NHS could be accommodated within the development and how the design can best support inclusive access, healthy environments and long-term social value.

The inclusion of a GP surgery in Union Square represents a meaningful and forward-thinking investment in local health infrastructure and we are pleased to endorse it as part of this important regeneration initiative.

Historic England (response dated 12/05/2025):

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 suggest that you seek the views of your specialist conservation and archaeological advisers.

Historic Buildings and Places (response dated 08/05/2025):

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.

Devon & Cornwall Police Designing Out Crime Officer (response dated 23/05/2025):

The proposed development sits in the Neighbourhood Policing Beat area of Torquay Town Centre which in terms of demand for policing is in the top 5 beat areas of Devon and Cornwall and is currently the highest in the whole of South Devon Local Policing Area. With incidents such as assaults & violence, shoplifting, theft, criminal damage and anti-social behaviour among the highest.

Conditions

If planning permission is granted for this development, I would respectfully ask that the following conditions are in place for the development:

That the design of the development shall meet the standards of Secured By Design and seeks the award. This is in the interest in designing out crime & crime prevention, in accordance with Policy DE1 of the Torbay Local Plan.

My rationale for this request is that the development sits within a policing neighbourhood beat area which sees some of the highest demand in Torbay, the immediate area suffers with anti-social behaviour, it is therefore in the interest of preventing crime and disorder and the fear of crime to the potential tenants of both the commercial and residential aspects of the development.

Areas of Concerns

Below is a summary of areas of concerns which I have highlighted there is further detail within the following pages.

- The appeared unrestricted access to the rear of block B, especially the ground floor windows and doors from the proposed mews, street shrub and ornamental planting.
- Lack of details of vehicle mitigation measures within the pathways and public accessible areas.
- Seating located near to the multi-storey car park area within areas which lack natural surveillance.
- The potential lack of improvement measures to the car parking levels of the MSCP.

The information within section 10 of the Design Access Statement titled Community Safety is welcomed and I support the measures included within them.

For ease of the reading, I will split this report into the blocks as stated within the submitted documents.

Block A

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.

It is welcomed that there will be a secure lobby area with CCTV coverage and access control. It is recommended that the access control system includes a visitor door entry system which will enable management oversight of the building. The technology by which access control system operates is outlined within UL 293 however it is recommended it also has the following:

- Access to the building via the use of a security encrypted electronic key (e.g. fob, card, mobile device, key etc.)

- Vandal resistant external door entry panel with a linked camera
- Ability to release the primary entrance doorset from the dwelling or bedroom.
- Live audio/visual communication between the occupant and the visitor
- Ability to recover from a power failure instantaneously
- Unrestricted egress from the building in the event of an emergency or power failure
- Capture (record) images in colour of people using the door entry panel and store images for as long as is necessary. The system should have the capacity to store images for at least 30 days. If the visitor door entry system is not capable of capturing images, then it shall be linked to a VSS or a dedicated surveillance camera shall be installed for this purpose.
- All visitor and resident activity on the visitor door entry system shall be recorded and stored for as long as is necessary. The system should have the capacity to store images for at least 30 days. This information shall be made available to police within 3 days upon request
- Control equipment to be located in a secure area within the premises covered by the VSS.
- It is also recommended that the system has colour monitors which assist the occupier of the dwellings in identifying the visitor and will also assist in accurately describing them and their clothing in the incidents of any anti-social behaviour or those misusing the system.

Please note I will not support a system which has a tradesperson or time release mechanisms due to the anti-social behaviour and unlawful access associated with these.

The block must have a form of compartmentation to prevent anti-social behaviour, criminality, where this is not implemented it could have an impact on the sense of safety for residents due to the unrestricted access to all areas. Residents should have only access to their own floors and associated services such as waste and bicycle storage as an example.

It's recommended that the bicycle storage access doors form part of the access control to prevent theft of bicycles, the internal side of the doors should also have some form of emergency exit equipment such as a crash bar or thumb turn lock to prevent someone being inadvertently locked in. The bicycle stands and/or rack system should be certified to one of the minimum standard stated with SBD Residential Guide 32.6.

Likewise, the external doors to the communal refuse bin should have some form of emergency exit equipment installed to the internal side of the external door. There should also be a self-closing and locking mechanism installed to the door, to prevent it being left open and insecure. The internal door leading from the refuse bin should form part of the access control so to prevent access into the residential unit from here.

It's welcomed the mail delivery is located near within the lobby but in a separate room, it's recommended these doors are linked into the access control system. It should also be covered by CCTV. The mail and delivery boxes should be robust in construction, should incorporate an antifishing design and be fire resistant, there should be high security cylinders equipped that are not subject to a master key access. Individual letter boxes shall have a maximum aperture size of 260mm x 40mm.

Access to the roof must only be for authorised persons only, so the external doors from the lift lobby area should be locked or included in the access control system with separate access for maintenance staff. Likewise, any other access hatches should be lockable and certified to a security standard such as LPS 1175 Issue 8 or LPS 2081 as an example.

If smart meters are not being utilised, then they should be installed in a location which does not introduce risk to the residential areas.

To discourage charging of mobile phones and any accompanying anti-social gatherings in communal areas, all 13-amp outlets or dedicated USB charging points intended for use by cleaners and building maintenance staff shall be capable of being key locked in the off position to prevent misuse.

It is welcomed and supported the 1.8m proposed railings around the communal private garden for the resident block. It's recommended the gates have a self-closing and locking mechanism to ensure these gates are secured and prevent unauthorised access, it would also be beneficial if these gates were also linked into the access control system.

The two bicycle and refuse stores within the communal garden area could reduce surveillance from the apartments and mews buildings due to their location in the middle of garden area. These must also be lockable and self closing to prevent inappropriate use. The internal doors must have some form of emergency egress equipment to allow for persons to exit should they be inadvertently locked in.

Consideration should be given to planting a buffer zone to the ground floor flats which face into the communal gardens, so to prevent access right up to the windows and doors. This can be achieved by either defensible planting or railings installed to provide a 1m buffer zone, without this it increases the risk of anti-social behaviour or crime, and the fear of crime to the residents.

Block B

All ground floor windows should have window restrictors installed so to prevent reach in burglaries where an offender reaches in an open window and steals anything within reach.

I have a concern for the rear of the block B dwellings as with the proposed mews street shrub and ornamental planting this could mean that people use this area inappropriately and also have free access up to the rear of the residential flats to block B. This is something I could not support as it could increase the risk of crime, anti-social behaviour and increase the fear of crime to the residents of these flats. I would recommend that there is a clear buffer zone between the rear of the units, this should be with either hedging or railings which could be at the height of 1.2m to clearly demarcate between private and public space. Or alternatively the dwellings could be re-designed to have the ground floor flats having their entrance facing onto the mews and this becomes a front garden for the mews with clear demarcation between public and private space.

Block C

It is appreciated that the tenants of the proposed units are at this stage not known.

Where new doors are being installed it is recommended that these are tested and certificated products meeting a national security standard such as PAS: 24:2022.

It is recommended that where any new ground floor and easily accessible glazing is being installed, it should incorporate one pane of laminated glass or glass tested to BS EN 356:2000 (Glass in building. Security glazing. Testing and classification resistance against manual attack) to category P1A or above, unless it is protected by a roller shutter that meets national security standard, such as LPS 1175 Issue 8A1 or LPS 2081 as an example.

It is recommended that a CCTV system is installed to the communal areas of Block C which public have access such as the stairwells and lifts etc. This is to prevent anti-social and criminal behaviour from occurring in these areas.

It is noted that currently there is no improvements suggested for the car parking levels of the MSCP. However, it would be recommended lighting is assessed and where necessary brought up to the standards of BS: 5489:1 2020. The use of pale colour paint on walls or floor can assist in reflecting the light which could reduce the requirement for additional lighting fixtures. It would also be recommended that the parking bays and road markings are painted to be clear. I would recommend that suicide mitigation measures are considered for the car park levels, as there are some which have considerable high drops and prevent this becoming an issue.

I would also recommend that the car park is brought up to the standards of the British Parking Association Park Mark Award and seeks the award, which will show that crime remains low and measures are in place to ensure the safety and security of people and vehicles.

Block D

It is welcomed that the proposed plans will provide natural surveillance onto the proposed new public open space and access routes. Having the new proposed doorways on the ground floor café will also bring an added level of legitimate activity within the area improving natural surveillance and potentially deterring criminal or anti-social behaviour, into the wider proposed scheme.

Where new doors are being installed it is recommended that these are tested and certificated products meeting a national security standard such as PAS: 24:2022.

It is recommended that where any new ground floor and easily accessible glazing is being installed, it should incorporate one pane of laminated glass or glass tested to BS EN 356:2000 (Glass in building. Security glazing. Testing and classification resistance against manual attack) to category P1A or above, unless it is protected by a roller shutter that meets national security standard. However, it is appreciated that some glazing will not be replaced due to the heritage listing, so therefore where glazing is not being replaced it would be recommended that where there is a sufficient internal reveal that secondary glazing certified to PAS24:2022 as a minimum, is installed where possible.

It would also be recommended that where possible wiring for CCTV and alarm system is installed so that future tenants of the proposed café and other parts of the market buildings have the option if they wish to install an intruder alarm, which will aid in deterring and

preventing unauthorised access. For police response, the system must comply with the requirements of the National Police Chiefs Council (NPCC) Security Systems Policy, which can be found at www.securedbydesign.com under the 'Group Initiatives' tab. Doing it at this stage could prevent any inappropriate wiring and fixture being on show which could impact on the visual aspect and heritage of the building.

Public Open Space

It is noted the footpaths are designed to be straight and wide which is welcomed as this will aid surveillance and prevent from people encroaching into others personal space. I would also ask that consideration for adopted areas are covered by Torbay Council CCTV.

Lighting within the public open space area and footpaths should comply with BS 5489-1:2020. Landscaping and CCTV must be considered alongside the lighting regime to ensure they do not conflict each other.

The seating being proposed should be robust and vandal resistant, its recommended that the main seating area close to the junction of Market Street and Union Street is covered by CCTV in the interest of deterring and preventing anti-social behaviour. I do have a concern with the two seats closest to the multi-storey car park, due to the lack of natural surveillance these could attract antisocial behaviour and effect the residents within block B. I would ask that these are either repositioned or removed.

Consideration should also be given to the design of the seating so to prevent people from lying or sleeping on them.

Where outside seating has been considered for the commercial units, these must be removable and be able to be stored within the commercial units to prevent them being used inappropriately to cause anti-social or criminal behaviour.

It is appreciated that there will be servicing areas within the adopted areas of the public open space and walkways, however there should also be some form of vehicle mitigation bollards installed to prevent vehicles coming into contact with pedestrians. Having liaised with our Counter Terrorism Security Advisors they have advised the following:

- Albert Road, - There should be means of stopping a hostile vehicle driving up this road beyond the proposed delivery access, with a line of bollards or similar behind the Pannier Market.
- Outside the Commercial Unit Block A - Impact rated bollards alongside the area to the limit access by a vehicle veering off Union Street, this should be extended towards the park space below.
- Public Open Space - In its current form it could permit hostile vehicle entry, use of landscaping (berms or substantial boulders) at the boarder to link up with trees and provide a defensible perimeter or use impact seating around the central core. The walkways should be impeded for vehicle access with bollards. Any protection should extend across to the pannier market structure. Impact rated bollards (to PAS170 standard) with space no more than 1.2m apart.

It would also be beneficial to consider anti-graffiti surface, or treatments are applied to surfaces, to prevent incidents of graffiti, which is seen in numerous places near the proposed development.

Its also recommended that bicycle racks are appropriately secured with a ground anchor to a 300mm foundation base.

I have consulted with the Neighbourhood Team, so they are sighted on the application and plans and their views have been factoring within this responses.

SWISCo's Senior Tree Officer (updated response dated 01/08/2025):

I have reviewed the soft landscape details and would request a minor species revision from the applicant.

Please would the tree planting be amended to three pairs of trees on the street frontage as per the annotated plan below.

SWISCo's Senior Tree Officer (original response dated 16/12/2024):

No objections on arboricultural grounds subject to minor tree species revisions to trees in both private and public realm locations and provision of detailed soil rooting volumes.

The application does not require any arboricultural enabling works due to the urban nature of the application area and complete absence of trees.

The project proposes to deliver both high-quality private gardens and public realm provision which incorporates structural tree planting. The landscape objectives set out in the application are broadly acceptable and I am in agreement with these principles and their incorporation into the landscape scheme.

The location of the planting is broadly acceptable and responds well to the proposed use of the various site elements.

The public realm planting will provide framing to the pannier market and help with provision of urban greening in general. This is a valuable component of the scheme which will help to soften and fragment the built environment.

My only concern with the public realm planting is the lack of species diversity, placing a reliance on Lime (Tilia) within the larger open space located on the corner of Union Street & Market Street. I understand that from a design perspective that uniformity of appearance with trees may be desirable, but is not essential in my view.

Throughout Torbay we are experiencing issues with a plant pathogen (Phytophthora) which has colonised and killed young – mature lime trees in various situations e.g. streets, parks. A reliance on a single species lacks resilience to any potential existing or emerging plant pathogens and affords a level of risk to the long-term delivery of the structural tree planting. My suggestion would be to vary the trees to incorporate Lime (as proposed - T.cordata 'Greenspire') but also to introduce Norway Maple (Acer platanoides (Emerald Queen or Olmstead) and Maidenhair (Ginkgo biloba), the latter of which thrives locally.

The central tree is proposed as Scots Pine, which is a UK native conifer which does not perform well locally, and has a correspondingly shorter lifespan and future contribution. Tree species which would be suitable for the central planting location could include Dawn Redwood (*Metasequoia glyptostroboides*), Chinese Elm (*Zelkova serrata*) or Cork Oak (*Quercus suber*). Each of these trees grows well locally and they would offer various attributes well suited to the location. A single tree in the central location is appropriate.

Birch is the dominant single species selected for the link walkway through to the west of the Pannier Market. Downy Birch has been specified for part of this route, but in my experience this tree favours damp or poor soils. This could be replaced with a cultivar of the UK native Silver Birch (*Betula pendula* 'Tristis'). Birch is suited to this area, casting a dappled shade with small leaves which should not be problematic for street cleansing operations.

Within the private garden areas, the use of local species of fruit trees to provide limited fruit production is a suitable use for the communal areas. The use of Rowan (*Sorbus aucuparia*) should be reconsidered as this tree is performing poor locally and replacement with the UK native Crab Apple (*Malus sylvestris*) is advisable. An ornamental Crab apple which performs well locally is *Malus trilobata* which merits consideration.

The available soil rooting volumes will be key to the success of the public realm planted areas. No details on soil volumes has been provided, which should be evidence to clearly demonstrate the chosen tree species have adequate soil volume to ensure the trees achieve their species potential and maturity. Sufficient soil volume should be evidenced for the species selection, with references to published sources of information e.g. Greenblue Urban, TDAG etc.

Where required, soil volume may be increased through the use of structural soils or crate systems. A detailed specification for any tree soil system must be provided and be suitable for the predicted loadings which might be experienced e.g. street sweepers, vehicles used for open space usage / events. If the open space is to form part of the highway and be adopted, sufficient engineering detail must be provided to support the eventual highway adoption process.

Tree pit soil volume may also play a role in SUDs provision for surface water attenuation. Any technical design should clearly demonstrate that the tree pits will have adequate access to water without any risks of static water retention or permanent saturation.

A technical specification for tree planting clearly stating soil depths (topsoil) and subsoils (including bulk densities) must be provided to show that any potential growing medium is available for tree root growth. The landscaping detail provided showing the method of tree support and underground guying is broadly acceptable.

If approved, commuted sums for the maintenance and establishment of the trees in the public realm locations should be secured through a Section 106 agreement. Sums and duration of the agreement should be subject to further negotiation but are expected to cover a minimum 25 – 30 year period.

Recommendations

Further information is required to include:

- Tree species amendments
- Soil volume calculations (public realm)
- Soil pit volumes / technical design of tree pits (crating systems or structural soils) - where required

SWISCo's Green Infrastructure Manager (response dated 27/05/2025):

This response is solely related to the development proposal of Union Square, Torquay for the delivery of 100 residential properties/units and does so without prejudice on CIL liability.

Reference and advice relating to biodiversity net gain (BNG) and sports and play provision and the wider landscape setting or related LVIA, will be provided by the relevant department and sit outside of this response.

Consultation with colleagues around the provision of benches, non-residential waste bins, non-highway path maintenance and street scene maintenance within the open space requirement will form part of any discussion.

Benefits of Green Infrastructure

Taken from the natural environment green infrastructure (GI) government guidance note the importance of GI is stated as; *'Green infrastructure is a natural capital asset that provides multiple benefits, at a range of scales. For communities, these benefits can include enhanced wellbeing, outdoor recreation and access, enhanced biodiversity and landscapes, food and energy production, urban cooling, and the management of flood risk. These benefits are also known as ecosystem services.'*

In addition, GI can, and does, include 'blue infrastructure' e.g., streams, ponds, rivers and other water bodies.

Torbay Local Plan Policies

The policies under-pinning the need for open space and recreation in the adopted Torbay Local Plan 2012-2030. Policy SS7 Infrastructure, phasing and delivery of development and the related key Policies: Policy SC2 Sport, Leisure and Recreation Policy SC2 alongside SS9 Green Infrastructure, Policy SS11 Sustainable communities and Policy DE1 Design

- Policy SC2 Sport, leisure and recreation states that development should provide access to sport, leisure and recreation facilities according to the additional demand it generates and the capacity, condition and location of existing facilities.
- The Affordable Housing and Planning Contributions SPD: Planning Contributions SPD (December 2022) – Section 4.6 sets out the approach for Open space and Recreation need and the consequent requirements for on-site and wider contributions.

Assessment

Reference to Section 4.6 Open Space, Sports and Recreation of the Planning Contributions SPD 2022 (https://www.torbay.gov.uk/media/19102/planning-contributions-spd_2022.pdf) table 4.9 and 4.10 identify the framework for s106 requests. In particular, the cost of open space per dwelling as per table 4.9.

The proposed development is to provide 102 residential units. It is understood that 20% are affordable housing but have been included within the calculation as there is likely to be increased pressure on existing resources irrespective of housing allocation.

Size of Dwelling	Total Cost per Dwelling	No. of Dwellings	Total
HMO	£781		£0.00
37-59m2	£1,093	62	£67,766.00
60-79m2	£2,081	40	£83,240.00
80-108m2	£3,726		£0.00
109m2 +	£4,164		£0.00
			£151,006.00

Costs to be agreed formalised during planning process

Please note the amount shown incorporates all elements of shown in the SPD and further detailed discussion may be required to disaggregate the contributions between the relevant sub – categories of open space and recreation etc.

This should be proportionately reduced to take account of any on-site provision in negotiation with and the Green Infrastructure Team.

Future Management of Open Space

Without prejudice SWISCo would be seeking to take on the management of the open space provision for a period of 25 years.

A review of the proposed management of open space identified a requirement for grass cutting/non-residential bin emptying/playground inspection/bench repair/non-highway path repairs. The annual cost of the works can be provided and will be plus RPI for 25 years.

Torbay Council's Conservation and Urban Design Officer (updated response dated 03/09/2025):

The comments below should be read in conjunction with those provided in response to the accompanying application for listed building consent (P/2025/0164).

Select amendments have been made in response to the comments previously provided, as set out in the supporting cover letter. However, it is noted that not all of the points highlighted previously have been addressed. Where updated comments are not provided below, the initial response to the proposal should be taken as the view on these elements which have not been amended by the recently revised plans. For clarity, these are also summarised towards the end of this response.

The amendments to the elevations and principally the materials, now with variations of grey and white brick, in the place of the previous facing materials, are a marked improvement on the previous design, with more relevance and a supporting strategy to break the massing with changes in materials and texture. The darker colour retained at the rear remains concerning, being universally applied, with limited visual interest given the expanse of this material.

The amendments to lower the railings to 1.1m are another marked improvement on the previous design and presents a better interaction with the street. However, concerns with the inactivity of the Union Street frontage and the approach with a single point of entry and under-build element remain. The site constraints, particularly with regards to surface water flooding, are acknowledged and present a significant challenge in providing alternative solutions.

The proposed approach to conceal the under-build element with a trellis and climbing plants is an improvement on the original design. However, concerns remain with the inactivity this results in addition to the long-term maintenance challenges it introduces.

Within the amended elevation drawings, a further notable amendment would include a new continuous angled roof to mews properties (Block B). No information or explanatory supporting information has been provided to establish why this change has occurred from the previous staggered massing. The alteration appears odd in the elevation drawings and without interpretation.

Beyond these changes there appear to be no further amendments to the proposal. The remaining points raised in the previous respond still stand and can be summarised as the following:

- The approach to handling the proposed height could be improved to better respond to the qualities of the townscape.
- The red line includes the pavement and provides a great opportunity to interact with and influence the public realm.
- It is not currently clear the extent that the proposals work with the wider masterplan or LCWIP - Torquay Town Trail.
- It is not clear how the public realm improvements encourage active travel. Dedicated servicing layby provided, no cycle lane or integration with the existing cycle network.
- It is not clear if there any additional street infrastructure requirements (lighting meter boxes, telecoms etc), wayfinding or measures necessary that would relate to the prevention of crime/terror related incidents. Absence of a strategy would likely impact the intended design quality of the spaces created. This is key to prevent pavement clutter and impacts on design quality and negative user interactions.

Impacts on the setting of heritage assets

The alterations proposed have not altered the proposal's impact on the setting of the heritage assets identified.

With regard to the Pannier Market, its setting has been much altered over time with former regeneration projects including the construction of the car park and Union Square shopping centre. The proposed loss of the adjacent buildings within the townscape, contemporary with the construction of the Pannier Market would result in harm to its significance, to a lesser degree in some cases due to lack of quality. The buildings proposed to be demolished provide a reference points in the evolution of this area of the town.

Impacts on the Pannier Market

Further information has been provided to support the concurrent application for listed building consent. The details of which are also relevant to this application.

The submission of further details has addressed the previous lack of clear and convincing justification where harmful works would be carried out to the Pannier Market, 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. 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 regeneration ambitions of the proposal are clear, although there will be a significant loss of townscape to facilitate this.

The amendments to the proposal have improved the visual appearance of the Union Street block. As described above, several of the concerns and opportunities raised previously remain.

Whilst the proposal would deliver some heritage benefits, I consider the proposed works would result in less than substantial harm to a moderate degree and this must be balanced against the public benefits that the proposal would deliver.

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.

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. (Market)
- Demolition Method Statement
- Expert supervision (Market)
- Hidden historic features. (Market)
- Stone/masonry cleaning. (Market)

- Building recording. (Market)
- Matching details. (Market)
- Removal of redundant infrastructure/services. (Market)
- Submission of details following demolition. (Market)
- New openings. (Market)
- Joinery details (Market)
- Phasing.
- Wayfinding and signage strategy
- Materials
- Boundary treatments inc. railings.
- Public seating
- Lighting design and strategy
- Associated infrastructure
- Hard and soft landscaping detailing inc. planting schedule.

Should you have any questions regarding the above please do not hesitate to contact me.

Torbay Council's Conservation and Urban Design Officer (original response dated 17/06/2025):

The comments below should be read in conjunction with those provided in response to the accompanying application for listed building consent (P/2025/0164).

The proposed/suggested use of part of the existing car park by the NHS will initially tether an element of the site into the wider context, although the certainty of their occupation at this stage is not abundantly clear at this stage. The role of Pannier Market and its intended relationship with the adjoining space in the scheme is still unclear. It is imperative that greater focus is given to this element as a piece of heritage-led regeneration to ensure the scheme is truly successful. The absence of a secure end use of the market is recognised as being a challenge, however it is concerning, particularly given the extent of works proposed to make this possible and to better integrate it into this area. An appropriate use, particularly for the southern end of the market building is particularly key to ensure that the new openings are not purely for aesthetic purposes and the space created around the market supports its function.

The street spaces created would be relatively well overlooked by adjacent residential development, although the proximity and intervisibility between the mews properties may simultaneously create tensions associated with residential amenity.

Whilst the cycle network has been mapped, it is not currently clear how the proposal would integrate with the existing cycle network running adjacent to the site and if those travelling by bicycles would be invited into and through the created public spaces. The inclusion of the pavement within the red line boundary provides a clear opportunity to enhance and strengthen the pedestrian and cycle infrastructure in this area, in line with the aims of the LCWIP. Cycle parking for proposed NHS use is provided for visitors, dedicated provision for staff appears absent.

Private cycle infrastructure within the scheme is well considered but the single point of access to the apartments, presents a single point of failure with regards to crime and also results in large distances from a number of apartments, reducing the likelihood of use.

The changes in level have not been designed in a way that does not compromise the qualities of the street. The progressive disparity between the street level and the finished floor level facing Union Street is inconsistent with the local built form and urban grain. The vast difference between the street level and internal ground floor level will also sterilise the ground floor of the development, preventing any further adaptations or an evolution of the building in the future. The block structure and unilateral expanse of external finish is not reflective of the general pattern of bay/building widths within the area. The precedent studies referenced all have active ground floors and smaller scale, a core principle which this proposal has disregarded. Juliet balconies at ground floor level are a questionable inclusion. The single, or limited points of access, in this instance located towards one end of the block creates overly long internal corridors that lack a sense of place or destination. This is clearly contrary to the quoted desire to reinforce Union Street as a lively high-street.

The commercial corner plot is successful in addressing the public space in addition to being relatable to prevailing building heights locally with a 4-storey frontage, rising to 5 storeys behind. This should be the model for dealing with the additional and uncharacteristic height within the wider proposal. The general lack of response to local context results in the appearance being relatively generic, without a distinctive locally derived character.

The overall form of the main residential block lacks recognition of the local character of the townscape which has a much finer grain. The proposed spandrel panels draw the eye upwards, accenting the perceived and potentially excessive verticality of the elevations. The use of green/glazed bricks is alien to the area, and suggested links to the Devon flag are too generalistic, and do not compliment the local context. Blue brindle brick is out of character and context, making the already shaded elevations appear darker still. Reconstituted stone lacks the required quality.

There appears to be an absence of human scale detail on the Union Street elevation and in general at ground floor level. The proposed interaction with the public realm on Union Street is poor, with the provision of high railings/fence adjacent to the footway, creating a largely inactive frontage following the creation of an uncharacteristic set back behind the established building line. The red line includes the pavement and provides a great opportunity to interact with and influence the public realm.

It is not currently clear the extent that the proposals work with the wider masterplan or LCWIP - Torquay Town Trail. It also is not clear how the public realm improvements encourage active travel as no additional cycling infrastructure besides Sheffield stands are incorporated in the proposals. Dedicated servicing layby provided, no cycle lane or integration with the existing cycle network.

It is not clear if there are any additional street infrastructure requirements, wayfinding or measures necessary that would relate to the prevention of crime/terror related incidents. This should be carefully woven into the wider scheme and not be retrofitted, which would likely impact the intended design quality of the spaces created. It is also not clear where the

associated infrastructure to support the development would be located (meter boxes telecoms etc). This is also key to prevent pavement clutter and impacts on design quality and negative user interactions.

The suggested build quality/standard is also currently ambiguous and currently lacks detail. A “good standard” is identified, which is disappointing.

Impacts on the setting of heritage assets

Largely I agree with the conclusions of the submitted heritage statement, that the proposal is unlikely to impact the setting of the adjacent identified Conservation Areas (Upton, Abbey Road, Warberries) or their special interest.

Similarly, I concur that the proposal would result in a neutral impact to the setting of The Old Sessions House Grade II Listed building

With regard to the Pannier Market, its setting has been much altered over time with former regeneration projects including the construction of the car park and Union Square shopping centre. The proposed loss of the adjacent buildings within the townscape, contemporary with the construction of the Pannier Market would result in harm to its significance, to a lesser degree in some cases due to lack of quality. The buildings proposed to be demolished provide a reference points in the evolution of this area of the town.

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.

Conclusions:

The application appears to require revisions and further information to fully understand the implications of the proposal.

The regeneration ambitions of the proposal are clear, although there will be a significant loss of townscape to facilitate this.

There are concerns with the design of the main Union Street block and how it interacts with Union Street both in its architectural design, its response to context and in its negative relationship at street level. Further clarification is also required on a number of detailed elements that relate to the functionality of the proposal.

Whilst the proposal would deliver some heritage benefits, the submitted impact 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 and this must be balanced against the public benefits that the proposal would deliver.

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.

I recommend that the application is not determined until further information has been provided as above to provide the information 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.

Environment Agency (updated response dated 31/07/2025):

We have reviewed the information submitted for which we received two consultation requests- dated 4th July and 14th July. In light of the information submitted, we are able to remove our objection to the proposal, subject to the inclusion of conditions on any permission granted which secure the implementation of flood risk mitigation. Suggested wording for these conditions are provided below:

Condition – Levels

The topographical levels should be built in accordance with drawing TQUS-CDY-XX-XX-D-C-0020 P01. No alterations to site levels shall take place that would adversely affect the conveyance of floodwater or reduce floodplain storage without prior written approval of the Local Planning Authority in consultation with the Environment Agency.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Condition – Finished Floor levels

All residential units within Block A shall have finished floor levels set no lower than 16.21m AOD, providing a minimum of 600mm freeboard above the lowest adjacent ground level.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Condition – Flood Resistance and Resilience

The development shall incorporate flood resistance and resilience measures as outlined in the FRA TQUS-CDY-ZZ-XX-T-C-0003. These measures shall be installed prior to occupation and retained thereafter.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Following a review of the supplementary Technical Note on Flooding (50452w0021), we are now satisfied that the flood risk matters previously raised have been adequately addressed and therefore our objection is withdrawn. We recommend the above conditions be attached to any planning permission granted.

Environment Agency (original response dated 20/05/2025):

In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application.

Reason

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- Consider how people will be kept safe from the identified flood hazards, particularly in relation to flood depths and modes of flooding associated with rivers, the sea, surface water and sewer surcharge. Consider how a range of flooding events, including extreme events, will affect both residential and commercial property.
- Consider the requirement for flood emergency planning, including flood warning and evacuation, for a range of flood events up to and including the extreme event.
- Take the impacts of climate change into account:
 - There is no assessment of the impact of climate change using appropriate climate change allowances. In particular, flood levels including allowances for climate change have not been used to define the necessary finished floor levels in both commercial and residential property
- Mitigation measures included in the design are inadequate because they will not make the development resilient to future flood levels over its lifetime. Specifically, the development proposes insufficient:
 - For raised finished floor levels in residential development we require a minimum freeboard of 600mm above the design flood level with climate change. In commercial units we would expect to see some freeboard or robust mitigation measures.
 - No clear evidence is provided to demonstrate safe access and egress, with routes remaining usable during a flood event. Information for the duration of potential flood and full breadth of site-specific data has not been used to inform access and egress section.
 - Resistance and resilience measures based on potential flood depths from all flood sources.
- Additionally, the FRA needs to incorporate CDA requirements and information from the Strategic Flood Risk Assessment (SFRA), which provides local context on flood hazard and potential impacts. This will support a more robust understanding of the site vulnerability.

Overcoming our objection

This redevelopment is an opportunity to address flood risk issues and deliver sustainable development in Torquay. To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above.

For the avoidance of doubt, we need to see cross-sectional drawings demonstrating how proposed finished floor levels, for both residential and commercial units, relate to street/road levels and predicted flood depths. If this cannot be achieved, we are likely to maintain our objection.

Torbay Council's Drainage Engineer (responses dated 28/07/2025 and 29/05/2025):

I can confirm that I have no objections on drainage or flooding grounds to planning permission being granted, provided that, infiltration testing is undertaken in accordance with BRE365 at the proposed location and invert level of the soakaways prior to development to confirm whether infiltration techniques such as soakaways are suitable.

South West Water (response dated 28/05/2025):

Asset Protection

Please find enclosed a plan showing the approximate location of public 225mm and 300mm combined sewers in the site. No development will be permitted within 3 metres of the sewer and ground cover should not be substantially altered.

Should the development encroach on the 3-metre easement, the sewer will need to be diverted at the expense of the applicant.

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/sewerservices-connections/diversion-of-public-sewers>

There is also a 100mm water main in the site. No development will be permitted within 3 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3-metre easement, the water main will need to be diverted at the expense of the applicant.

Further information regarding the options to divert a public water main can be found on our website via the link below:

www.southwestwater.co.uk/developer-services/water-services-andconnections/diversion-of-water-mains/

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)

The applicant indicates infiltration testing has not been possible as existing buildings are still on site. They propose to undertake such testing when demolition is complete. Should testing show infiltration is viable, they propose to use soakaways and attenuation crates before discharging to the SWW combined sewer.

Should infiltration prove unviable, the applicant proposes to attenuate via crate before a controlled discharge to the SWW combined Sewer.

For both these approaches, agreement will be required from SWW to make connections to our network.

It is noted for those parts of the site not to be demolished drainage provision will remain as existing.

South West Water response relates to surface water discharge to our network, where the discharge is from buildings and yards belonging to buildings. Where the applicant has highlighted that the surface water does not connect to South West Water network, we are not commenting on this as it is not our responsibility.

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

South West Water are not responsible for Highway Drainage and our comments do not relate to accepting any of these flows. The applicant should discuss and agree with the Highway Authority, where the highway water connects to.

If the applicant wishes to connect this development to the South West Water network, they should engage with us separately to see if we can accommodate this. No highway drainage will be permitted to be discharged to SWW foul or combined public sewer network either directly or indirectly.

If the applicant is looking to have their sewers adopted (surface and foul), they should design and construct the sewers to the current version of the Design and Construction Guidance. The process for doing this can be found on South West Water's website.

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-developmentservices

SWISCo's Waste (Strategy & Performance) Team Manager (response dated 14/07/2025):

I have no objection to this development. Sufficient information has been submitted within the planning application for waste and recycling arrangements. Kat advises me that the applicant has followed Building Regulations H6.

The plan also notes that they will liaise with local waste collection providers to make sure collections are convenient and no disruption is made to the residents. I can also see access points provided within the plan for waste collection providers to stop and make access.

Wales & West (response dated 07/05/2025):

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

WSP on behalf of the Highway Authority (updated response dated 28/05/2025):

Site Description

The site is the existing Union Square shopping centre, located off Union Street in the north west of Torquay town centre. Union Street is one-way in a southbound direction between Castle Circus and Market Street. On-street parking for blue badge holders is located on the majority of the eastern edge of Union Street, accompanied by loading bays and taxi waiting bays. An approximate 50m bus layby is also located on the east of Union Street which comprises two sheltered bus stops. An advisory cycle lane is located adjacent on the on-street bays. The footway on both sides of Union Street is wide, with a minimum width of approximately 2.5m.

On the site's other boundaries are Market Street to the east, Castle Lane and an existing multistorey car park (MSCP) to the north and Castle Road to the west. Market Street is a two way arrangement enabling access to commercial and residential units. The street also provides access to Albert Road loading bay (for the shopping centre) and Union Square MSCP.

Site History

In addition to the pre-app comments given by the Highway Authority in March 2025, a design review panel meeting was also held in November 2024.

Policy

The Highway Authority previously commented that the TA must include a Vision Led approach as per NPPF. The TA has not specifically detailed a vision for the site, however it has referenced the vision for Torquay as set out in the Torbay Local Plan and Torquay Neighbourhood Plan. Due to the site's location and sustainable accessibility, the applicant states that the proposed development is considered to be in accordance with relevant local and national planning, development and sustainable transport policies and envisions the concept of a 20-minute neighbourhood.

Traffic Impact

Trip Generation - Flats privately owned

The Highway Authority previously commented that the trip rates appeared low which could have been attributed to a limited number of survey dates. It was recommended that full TRICS outputs be provided within the TA. Previously, vehicle trip rates were provided.

The TA has provided total person trip rates demonstrating a total of 48 movements in the AM peak and 74 movements in the PM peak, stating that these trips would be accommodated on foot, cycle or public transport. It is noted however that the appended TRICS outputs show the same rates which the Highway Authority previously considered to be low, demonstrating that there would be 9 vehicle trips in the AM peak and 8 in the PM peak. The TRICS outputs show that the surveys include sites in Carlisle, Manchester and Nottingham which are dissimilar to Torquay. Nevertheless, the trip generation appears reasonable for a car free development.

Trip Generation - Commercial retail

The draft TA previously suggested that there would be a total of 12 trips in the AM peak and 27 trips in the PM peak for 10,473sqm for commercial space. The resubmitted TA states that no net change in traffic will result from the proposals due to only an increase of 100sqm being proposed compared to the existing shopping centre use. No comparative trip generation exercise has been conducted. In principle, the approach is suitable. However, a net trip generation assessment would improve the robustness of the approach.

Highway Safety

The TA has provided collision detail for January 2019-December 2023 for an area comprising the highway surrounding the site. 19 collisions occurred in total, of which four were serious and involved two pedestrians. However, the collisions occurred at different locations and cannot be attributed to any specific highway safety concern.

Design Considerations

Highway Adoption

As mentioned in the previous pre-app response, the Highway Authority will look to continue to maintain the existing public highway once the development is completed, as shown below. However, the Highway Authority does not intend to adopt the internal access routes within the site.

It was previously requested that the applicant submits a drawing with the existing public highway boundary shown on the proposed development layout. This does not appear to have been provided.

The non-highway elements of the site shown as green on DWG TQUS-HMA-ZZ-ZZ-D-A-90100 indicate areas for adoption, however the Highway Authority does not intend to adopt anything provided beyond the existing adopted highway and/or the internal routes.

Pedestrian and Cycle Access

The TA states that there will be a number of potential pedestrian access points to the site in order to strengthen pedestrian permeability within the wider local area, in keeping with the aspirations to develop a '20-minute neighbourhood'. Site plans show that pedestrian and cycle access can be achieved from Market Street and Union Street.

Cycle Parking

The TA states that cycle parking will be provided at a rate of 1 space per flat and 2 spaces per mews house, which is line with the requirements within Appendix F of the Torbay Local Plan. Cycle parking for the mews houses is proposed within two separate secure lockups, whilst cycle parking for the flats is proposed within the building. However the location of the cycle store within the flats is not clear. This should be clarified by the applicant. The arrangement for the mews houses is suitable.

For the commercial use, it is stated that the units will provide Sheffield stands in a highly visible, well lit location, suitable for short term parking. However, the location of these stands is not specified. The applicant should confirm the number of cycle spaces for the commercial uses and the intended location. The applicant should also consider provision for non-standard cycles. Sheffield stands with a tapping bar are recommended.

Public Transport Access

The site is considered to be well located for access to public transport with bus stops on Union Street and Market Street located less than 100m from the site. Torquay train station is also reasonably located an approximate 22 minute walk to the south west.

The applicant should consider whether any bus stop improvements are required, particularly the requirement for Kassel kerbing at locations on Market Street.

Vehicular Access and Car Parking

It is understood that the development is to be car free and that any additional demand on parking generated by the proposed development will be accommodated in the existing public car parks. In the recent meetings, the Highways Authority raised a concern that car parking is a contentious issue and requested that the applicant speak with the Torbay Council Parking Services team to understand whether future residents could be offered resident permits in the multi-storey car park, alongside extending the car park opening times.

The applicant has not considered car parking, stating that this will be sorted through private arrangements should residents wish to park in the MSCP, where parking permits are available. No consideration has been made to the operational timings of the car park and how this may impact residents access abilities. Further discussions between the applicant and Torbay Parking Services are required to understand how any parking for the proposed site would be managed within the MSCP due to opening times which are not 24 hours. It is understood that the development aims to be car free and there are minimal vehicle trips forecast, however there will be some demand for parking for both residents and visitors.

Refuse / Servicing / Emergency Access

Ground Floor Service Charge & Adoption Areas drawing TQUS-HMA-ZZ-ZZ-D-A-90100 shows servicing for residential uses and café will be on Union Street, whilst servicing for the Pannier Market will be on Market Street. The Pannier Market and the NHS block will also be serviced using Albert Road as per the existing arrangement. This arrangement is shown below.

The TA states that underutilised taxi bays on Union Street will be relocated to enable a repurposing of use for servicing vehicles, however it is not clear where these taxi bays are proposed to be relocated. This should be clarified. The applicant should consider whether the existing TROs on Market Street are suitable to enable loading, and should also be aware that any changes to existing TROs are to be funded by the developer.

It is also unclear how the bin stores for the mews houses are to be accessed by the waste collection team. Figure 2.4 in the TA shows the mews houses bins are located centrally within the site, beyond recommended drag distances, and on land which will not be adopted by Torbay Council.

Due to the internal layout not being adopted, a Condition could be recommended to ensure all access routes are kept clear and suitably retained for emergency access.

The previous response to the draft TA mentioned that the Torquay Town Trail within the LCWIP could see Union Street closed to motor traffic. Therefore, any access arrangement strategy should consider the potential unavailability of this location and propose an alternative solution. The TA states that the proposals will not present any obstacles to the LCWIP plans but has not provided an alternative arrangement for loading on Union Street. The Highway Authority are satisfied with this proposal in this interim period.

Travel Plan

It was previously commented that the Outline Travel Plan should endeavour for a greater increase in walking and cycling trips than the 8.9% shown after 5 years, and that car trip mode share should be reflective of the final car parking arrangements. The TA demonstrates that the existing portion of the working and residing population within Torbay 008 MSOA who walk and cycle is 29.3%, thus demonstrating that the 8.9% increase in walking and cycling trips through Travel Plan measures would meet the requirements of Policy TA2 in the Local Plan. It is also noted that the share of travel by sustainable modes would be even greater when considering public transport. The Travel Plan ambitions are therefore considered suitable.

The applicant states that a Full Travel Plan specific to the end occupiers will be prepared once known and can be delivered through planning condition. The Full Travel Plan and Monitoring and Evaluation will be required, and secured in a S106.

Flooding

The Planning Statement notes that the majority of the site is located within Flood Zone 1 according to the government's flood risk map for planning. However, the frontage of the site onto Union Street is located in Flood Zone 3 (high risk of flooding) and parts of the site falls within a Flood Risk area designated in the adopted Local Plan.

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. As a major proposal, a £5,000 contribution is required for this application.

Construction Traffic Management Plan (CTMP)

A CTMP would be required through a suitably worded planning condition at the necessary stage.

Conclusion

Several comments have been made in relation to the proposals which should be addressed before a positive recommendation can be made. These comments largely relate to the cycle parking, servicing/refuse collection arrangements, and adoption proposals. The applicant should also note that the Highway Authority does not intend to adopt beyond the existing HMPE land.

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

No objection (with conditions).

I have reviewed: Shadow HRA: Test of Likely Significant Effects and Appropriate Assessment (FPCR, August 2025), which was submitted to address my previous comments with regards to the potential effects of the development on Lyme Bay & Torbay Marine SAC due to changes to Water Quality – specifically to address the requirements of Torbay Local Plan Policy W5 'Wastewater Disposal'. I am satisfied with the submitted HRA and suggest Torbay Council as the Appropriate Authority under the Habitats Regulations, adopt the document as their HRA. As an Appropriate Assessment was conducted as part of the HRA, Natural England must be consulted prior to determination.

Bat Roosts: The full survey results were provided, and *"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."* Acceptable outline of the mitigation requirements was provided in the report, and I am satisfied that Natural England are likely to grant a licence. Suggested condition below.

Nesting Bird details: following my request for further information, four herring gull nests were confirmed on the roof top. There is agreement with my previous response in the report that while 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. Nesting Bird Mitigation Plan condition suggested to deal with this.

Enhancements: In my previous response, I did not raise enhancements. They are proposed in the Ecological Appraisal, but there is limited detail. I have suggested a pre-commencement planning condition below.

Suggested Conditions:

1. All demolition and construction activities must comply with the bat mitigation measures detailed in paragraphs 5.1 to 5.12 of the Bat Survey Report prepared by FPCR (dated 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.

2. 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.

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

3. Prior to the commencement of development, an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the number, type, and location of faunal enhancement features, specifically swift boxes, house sparrow terraces, bat boxes, and insect bricks, all of which shall be integrated into the fabric of the building (e.g. built-in or flush-mounted units). The approved measures shall be installed prior to the occupation of the development and retained thereafter.

Reason: To enhance ecological value and support protected and priority species through the provision of targeted faunal features, in accordance with the National Planning Policy Framework (NPPF), Section 40 of the Natural Environment and Rural Communities Act 2006, and local biodiversity objectives.

Devon County Council's Principal Ecologist (original response dated 30/05/2025):

An Ecological Appraisal (FPCR, 2025) was submitted with the application, as well as a Biodiversity Net Gain metric. The application site is entirely urban, with very few opportunities for habitats and protected species. This is reflected in the findings from the desk study and survey work, with nesting birds and bats identified as the only onsite considerations.

Bats: The bat roost inspection identified presence of low and medium potential bat features, but the report notes that roosts of high conservation status are unlikely to be present. The report also highlighted records of lesser horseshoe near the complex. Further survey to classify the potential features is being undertaken. The standing advice from Natural England to LPAs is not to decide on planning applications until you have received all the necessary surveys (excluding exceptional cases and certain situations). The report states the surveys are being undertaken "*during the determination period*", suggesting the information should be available soon.

Additional information request: Please can the bat nocturnal survey results be provided.

Nesting Birds: Based on the site visits to date, active herring gull nests were recorded. Herring gull are a Priority Species and a red listed bird of conservation concern as they have declined

significantly, particularly from their natural nesting habitats. Urban herring gulls, however, are abundant and not a conservation concern locally. Ferrel pigeon were also identified as likely nesting, as well as potential for some other common urban species such as pied wagtail.

All birds are a legally protected while nesting, which can present problems for urban demolition projects such as this and result in delays.

The standard approach of demolition outside the nesting season, or following a nesting bird check, was proposed as mitigation during demolition. In my view, securing a more robust plan is required since if demolition does take place in the nesting season, it will be more complex than a standard nesting bird check. To give the constraint some more context, please can the number of gull nests be confirmed?

Additional information request: number of nesting herring gulls.

Condition - A pre-commencement Demolition Nesting Bird Management Plan to be submitted and approved by the LPA. Could caveat that it is only required if demolition takes place during the nesting bird season (March to September inclusive).

Protected Sites

European sites and Habitats Regulations Assessment (HRA) Consideration

An HRA is required for the proposals.

Lyme Bay and Torbay Marine SAC was shown within the mapping, but not mentioned elsewhere in the report; however, I consider it here. The Torquay Local Plan HRA and Torquay Neighbourhood Plan HRA screen in a Likely Significant Effect on the SAC from the potential impact of the future growth areas on water quality. Waste Policy W3 outlines what is required to satisfy a conclusion of no adverse effect on the integrity of the marine SAC. Confirmation of this will be required for Torbay Council to conduct their HRA as Competent Authority.

South Hams Bat SAC (approx. 8km from site) was identified in the report. The main urban areas of Torquay that includes the site, are outside the SAC consultation zones. A Likely Significant Effect as a result of the proposals on the SAC can be screened out in the HRA.

Biodiversity Net Gain

As explained in the ecology report, the application is exempt from the statutory Biodiversity Gain Objective because the *De Minimus* threshold has not been met. An informative that states the application is exempt from the BNG objective should be included in the decision notice.

At the council's request, a BNG assessment was still provided and a high percentage net gain score of 875% has been predicted. This is a positive of the project and welcomed; however, please note that BNG is only really useful for determining if a development delivers at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. The large figure is therefore not a reflection or overall biodiversity value, and a 1.1 unit increase.

Urban Greening Factor is a more appropriate metric for these situations, and the views of landscape officers/urban designers more important than an ecology perspective.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Residential Amenity
5. Highways, Movement and Parking
6. Ecology, Biodiversity and Trees
7. Flood Risk and Drainage
8. Designing Out Crime
9. Low Carbon Development and Energy
10. Affordable Housing

1. Principle of Development

The proposal is for the partial demolition of the existing Union Square Shopping Centre, the demolition of 9 no. commercial units fronting on Union Street and Market Street and the partial demolition of modern additions to the Pannier Market. The proposal is for the redevelopment of the application site to provide residential development (99no. units) with associated amenity space, the creation of a new Class E commercial unit, the repurposing of the retained shopping centre floorspace sited below the existing Union Square Multi-Storey Car Park (MSCP) for Class E uses and associated external alterations, external works to Pannier Market, creation of a public square and associated development infrastructure and works.

The Neighbourhood Forum strongly supports the principle of this development in providing much needed housing, and restoration of the Pannier Market.

Housing

The proposal involves the formation of 99no. apartments which includes a mixture of 1-bed and 2-bed apartments. The site is a critical regeneration opportunity in the heart of Torquay Town Centre. Policies SDT1 and SDT2 of the Local Plan support the regeneration of key town centre locations to strengthen Torquay's role as a commercial and social centre for residents and visitors. Since the original submission, the number of residential units has been revised from 102no. to 99no. following concerns relating to daylight and sunlight levels to habitable rooms. The supporting Design and Access Statement provides the evolution of the scheme including an overview of the feasibility work undertaken to find the maximum potential for the site.

Paragraph 61 of the NPPF outlines that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

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.

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 SS11 of the Local Plan states that development will be assessed against its contribution to improving the sustainability of existing and new communities within Torbay. Development proposals will be assessed according to whether they create a well-connected, accessible and safe community, protect and enhance the local natural and built environment, and deliver development of an appropriate type, scale, quality, mix and density in relation to its location. As the application site is within the Torquay Town Centre Community Investment Area, Policy SS11 states that development proposals should provide a good standard of residential accommodation and there should be resistance to changing the use of homes to houses of multiple occupation, therefore a planning condition is recommended to removal permitted development rights from C3 to C4.

Policy TS4 of the Neighbourhood Plan states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the Plan. Policy TS1 of the Neighbourhood Plan states that development proposals should accord with policies contained in the Neighbourhood Plan, where relevant, unless material planning considerations indicate otherwise.

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 and a 20% buffer 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 194) 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 8: This includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. See also paragraph 232.

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.

According to 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.

Torbay has a pressing need to identify more housing land. There is a very severe shortage of developable greenfield sites, and even allocated sites face viability and topography challenges. Torbay has not achieved the target numbers in the Local Plan, due in part to brownfield regeneration sites not coming forward. The original proposals for the redevelopment of Union Square saw approximately 250no. residential units, however the current proposal seeks approximately 990no. residential units. Town centre sites have complex constraints and there is a strong case for public-private sector intervention to seek to overcome these obstacles. It is noted that there are viability issues relating to the site, as well as deliverability matters that have limited the height of the proposed development. The evolution of the scheme, including the quantum of development, has been clearly outlined and justified within the supporting documents.

Town centres are often the most sustainable location for development, as they are close to a range of services, amenities and facilities, therefore minimising the need to travel by private motor vehicle. It is also important to note that increasing residential accommodation in town centres will also help regenerate those areas and support retail and other commercial uses.

Town Centre

The regeneration of town centre areas is very strongly supported in the Local Plan, and the Council's Principal Policy and Project Planner has stated that this principle will almost certainly be carried over into the emerging Local Plan. Objectors have raised concerns regarding the impact of the proposal on the town centre.

Paragraph 90 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Paragraph 90 of the NPPF goes on to state that policies should recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.

Paragraph 94 of the NPPF requires for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, an impact assessment if the development is over 2,500 square metres or a proportionate, locally set floorspace threshold. The NPPF confirms that the assessment should include:

- a. the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b. the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Policies SDT1 and SDT2 of the Local Plan provide a broad framework for Torquay Town Centre. From a policy perspective, achieving a successful redevelopment of the area is

strongly supported by the Development Plan. Policy SDT1 seeks to provide at least 824no. dwellings in the town centre.

Policy SDT1 of the Local Plan states that Torquay is and will remain the primary commercial centre of Torbay. Harbourside and town centre sites will be developed for appropriate mixed uses, and the re-use of space within buildings for residential accommodation will be supported. The urban areas will be improved and renewed, with strong support for family homes. Regeneration, comprehensive redevelopment and large-scale investment will ensure that the town centre and Torquay Harbour areas evolve as the principal town centre and the centrepiece of a modern, prosperous and sustainable Torbay, whilst conserving or enhancing the historic and natural environment.

Policy SDT2 of the Local Plan states that Torquay Town Centre will develop as the largest retail and leisure centre of the Bay and become the key sub-regional retail and leisure destination. This will help provide an improved, vibrant and more enjoyable shopping and leisure environment with better high street retail, eating and leisure facilities. Furthermore, regeneration of key sites will help strengthen its role as a commercial and social centre for residents and visitors, whilst conserving or enhancing the area's historic character and environmental value. Developments within Torquay Town Centre and Harbour areas should comprise a mix of suitable town centre uses and help to increase substantially the numbers of town centre homes during the Plan period.

Policy TC1 of the Local Plan also supports town centre regeneration. Both Union Street and Albert Road running through Union square are primary shopping areas and frontages. Market Street is secondary frontage. Policy TC2 of the Local Plan identifies the application site as being located within a primary shopping area and at the top of the shopping centre hierarchy. Policy TC4 of the Local Plan seeks such frontages to be "predominantly" Use Class A1. However, the Government made major changes to the Use Classes Order and from September 2020 the site would fall into Use Class E "Commercial, business and service" use. It is noted that initial proposals sought to retain retail uses to the ground floor, however it is physically evident that this section of Torquay Town Centre has many vacant retail units that have remained such for several years. The ground and first floors of the Union Square MSCP have been vacant since Wilkos left the premises, the lawful use of those floorspaces is Class E, such will be retained through the proposals for Block C.

The Neighbourhood Plan aspiration for the town centre, includes a desire to increase residential accommodation. Policy TS2 of the Neighbourhood Plan outlines that major development proposals within the town centre will be supported where they contribute to meeting the objectives of the Neighbourhood Plan for these areas and they conform to the area wide Master Plans adopted by the Council where those Master Plans are in compliance with the policies of the Plan.

The Council adopted the Torquay Town Centre Masterplan in June 2015. This does not specifically highlight the Union Square area but is nevertheless supportive of town centre regeneration. The Council have a draft Torbay Regeneration Vision document which is anticipated to be formally adopted by the Council in 2025. The vision identifies a series of key principles for Torquay's Regeneration Vision, including:

- Reduce the size, enhance and strengthen the Retail Core;

- Encourage mixed use, residential neighbourhoods to the north
- Encourage more street activation; A market, street food, entertainment and events.
- Change the perception of Torquay from 'seaside destination' to 'Vibrant Coastal Town'

The Torbay Regeneration Vision document recommends reducing the retail core and encouraging retailers to relocate from Union Street to Fleet Walk to provide critical mass of retailers to ensure vitality in the long term. The current high levels of vacancy along Union Street can, over time, be converted into mixed use residential neighbourhoods, with Union Square Shopping Centre including the frontages on the corner of Union Street and Market Street, being identified as potential site for mixed-use neighbourhood.

Although not a formal development plan document, the Torquay Regeneration Vision helps deliver several key Torbay Community and Corporate Plan 2023-43 objectives, including the Pride in Place priority to *"Draw investment into our towns and breathe life into our town centres, partnering with the private sector to deliver major projects"*. It will also assist with the delivery of affordable housing and jobs which will also meet Community and Corporate Plan objectives". As a document that helps deliver these Corporate objectives it is a further material consideration in favour of the development. Although the emerging Local Plan is at an early stage of preparation, advice from the Planning Policy team is that the emerging Local Plan will need to lean heavily into the Corporate and Community Plan objectives, and in particular will support key urban regeneration projects as a major source of housing and boosting the Bay's economy.

The application is supported by a Town Centre Assessment. Torquay Town Centre remains the principal centre in Torbay, however as recognised in the Torbay Retail Study its turnover has declined in recent years. Torquay is facing challenges from vacant retail floorspace, created by retailer failure or retailers downsizing or rationalising their property portfolio. The GOAD category report for Torquay town centre, based on centre survey undertaken in June 2024, identifies 108 vacant units, equivalent to 24.0%. This compares to the national average of 14.2% (June 2024). Increased vacancy rates impact upon the attractiveness of a centre both in terms of public perception and investor / retailer confidence, and in the case of Torquay includes some significant vacant units including the former Debenhams department store, former Wilko unit, and the former New Look unit.

With regards to Union Square Shopping Centre, there are 19no. units within the Union Square Shopping Centre, of which 10no. units (53%) are currently vacant, equating to 4,332 square metres gross floorspace. Such is caveated, as the Council own the Union Square Shopping Centre and given the aspiration to redevelop the site, so some units have remained vacant as the Council currently seeking short duration lets which are not attractive to all occupiers. Also, some existing tenants have opted to remain in the space instead of relocating. The Council have offered significantly reduced rents to entice existing tenants to vacate.

The supporting Town Centre Assessment outlines the retail floorspace relating to the Union Square Shopping Centre:

- Existing net commercial (retail and service) floorspace within Union Square Shopping Centre – 6,772 square metres
 - 2,628 square metres is active

- 4,114 square metres is vacant
- Existing net commercial (retail, service and leisure) floorspace within units to be demolished on Market Street and Union Street – 1,477 square metres
 - 1,230 square metres is active
 - 247 square metres is vacant

The proposal seeks to demolish 3,958 square metres of existing commercial floorspace within Union Square Shopping Centre and 1,477 square metres within units on Market Street and Union Street. The proposal involves the creation of a new commercial unit within Block A, the repurposing of the former Wilkos store on the ground and first floors of the Union Square MSCP (4,401 square metres) and the retention of the existing commercial floorspace within the Pannier Market (1,370 square metres at ground floor and 897 square metres at mezzanine).

The supporting Town Centre Assessment has estimated that the proposed demolished floorspace would equate to a loss of 5.7% of the total floorspace within Torquay Town Centre. The Assessment assessed the retail impact of the proposed development based on three scenarios, outlines that whilst the proposal will have a negative impact upon the retail turnover of the town centre, this is considered to be limited at -1.1%. The Torbay Retail Study confirms that Torquay Town Centre has been declining for a number of years and it is likely that the level of active commercial floorspace and turnover of the centre will continue to decline, which will have a negative impact on the vitality and viability of Torquay Town Centre. The supporting Town Centre Assessment considers that the proposal will lead to a transformation change to the northern end of the town centre which will assist in stemming the decline of the town centre.

It has been demonstrated that whilst the proposed development may result in a minor negative impact on Torquay Town Centre retail turnover in quantitative terms, however there is no evidence to indicate that the development would have a '*significant adverse impact*' upon the vitality and viability of Torquay Town Centre.

The proposed development will result in many benefits, including the introduction of residential development to the top of Torquay Town Centre, which will generate additional retail and leisure expenditure within the town centre. The proposal will deliver a new NHS facility in a sustainable and accessible location. The proposal will provide significant investment to Torquay Town Centre, which will assist in boosting the confidence of other businesses and investors, visitors and shoppers within the town centre. The proposal will retain the existing use of the Pannier Market and will deliver enhancements to the listed building. The proposal will be a catalyst at helping the town centre evolve and adapt to consolidate the retail uses towards the southern end of Union Street and Fleet Walk whilst provided much needed housing. Other seaside tourist towns are experiencing regeneration projects, the proposal will help Torbay compete with other tourist destinations.

2. Design and Visual Impact

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, 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 TH8 of the Neighbourhood Plan. Policy DE1 of the Local Plan states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment. Policy DE4 of the Local Plan outlines that the height of new buildings should be appropriate to the location, historic character and the setting of the development. Policy DE4 of the Local Plan asserts that new development should be constructed to the prevailing height within the character area in which it is located, unless there are sound urban design or socio-economic benefits to justify deviation from this approach. 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.

In terms of the proposed development, there are 4no. blocks of built development, these include:

- Block A – Five-storey mixed use building fronting Union Street, featuring a ground floor commercial unit and 85no. residential flats.
- Block B – Two-storey Mews style building positioned parallel to the Pannier Market, which includes 14no. residential flats.
- Block C – Existing Union Square Multi-Storey Car Park (MSCP), will maintain existing 451no. car parking spaces and provide 4no. new commercial units across the ground and first floors within former Union Square Shopping Centre floorspace.
- Block D – Pannier Market, Grade II listed building, which the proposal seeks the restoration and reopening of the market building.

Objectors have raised concerns to the proposed development regarding the impact have on the local area, it not been in keeping with the local area, it setting an unwanted precedent, it resulting in an overdevelopment of the site and it having a negative visual impact/design.

Block A is a five-storey mixed-use building fronting Union Street, which slightly varies in height to lend itself to the topography of Union Street. Block A is arranged in an L-shaped configuration to respond to the adjacent quarry face to the rear. Block A will contain a commercial unit to part of its ground floor as well as providing 85no. residential flats. As Block A gets closer to the Pannier Market (Block D) it steps down to four storeys. Whilst Block A will be larger than the existing Shopping Centre, the proposed height of Block A is considered to be acceptable when considering other existing built form in the nearby vicinity, namely Union House which is six storeys with rooftop parking. The Conservation and Urban Design Officer has raised that the proposed height could have been improved to better respond to the qualities of the townscape.

Block A also includes a small section of landscaping / external amenity space to the ground floor frontage to provide an element of defensible space. It is considered that the proposed ground floor openings of Block A do not respond to the topography of Union Street, as the building progresses down Union Street towards the proposed ground floor commercial space contained within Block A, the openings on the ground floor of the adjacent residential units would be approximately 2.2 metres above street level. The matter was raised during the pre-application enquiry and the applicant has justified their approach by stating that if the principal elevation followed the topography, it would require individual front doors which would conflict with the single entrance strategy that supports security, management and accessibility.

The proposed materials for Block A have been revised during the lifetime of the application. The amendments to the elevations and principally the materials, now include variations of grey and white brick, in the place of the previous plain and bland facing materials, which are a marked improvement on the previous design. Such is considered acceptable given it being more relevant and assists at supporting to break the massing with changes in materials and texture. The proposal includes a darker colour retained at the rear, however such is being universally applied, with limited visual interest given the expanse of this material. Planning conditions are recommended to secure details of such to ensure a suitable material and height boundary treatment is provided and appropriate landscaping in this pocket of green space.

The revision also sought to amend the principal boundary treatment for Block A, lowering the proposed railings from 1.8 metres to 1.1 metres, which is considered an improvement on the previous design and presents a better interaction with the street. However, concerns do remain with regards the inactivity of the Union Street frontage and the approach with a single point of entry and under-build element remain. The applicant has provided justification for such, including the site constraints, particularly with regards to surface water flooding, which are acknowledged and present a significant challenge in providing alternative solutions. The proposed approach to conceal the under-build element with a trellis and climbing plants is an improvement on the original design. However, concerns remain with the inactivity this results in addition to the long-term maintenance challenges it introduces in terms of maintaining suitable landscape whilst contending with litter and surface water.

Block B is a two-storey Mews style building that includes 14no. residential flats would be positioned parallel to the Pannier Market (Block D). This element of the proposed development has evolved significantly during the lifetime of the proposals. The proposed building would provide a staggered echelon position, running parallel with the Pannier Market to provide a naturally surveyed walkway. Block B mimics the style and character of Block A and is therefore considered to be acceptable, whilst providing a careful transition in height between the new and historic elements of the application site. Block B would include a continuous angled roof which has been revised from the original scheme. The Conservation and Urban Design Officer has commented that this revision has been made without any information or explanation.

Block C is the existing Union Square MSCP, the proposal seeks to make alterations to the ground and first floor of the building where Wilko previously operated. The lower levels of Block C are consumed by the existing Union Square Shopping Centre when viewing the Multi-Storey Car Park from Union Street. The proposal involves the demolition of the existing Shopping Centre to enable the Union Square MSCP to be a stand-alone building. During pre-

application discussions, the applicant was recommended to make improvements and enhancements to the higher levels of the Union Square MSCP, however this has not been pursued. It is unfortunate as such would have provided many benefits, including a more visually attractive piece of built form, reduce the anti-social behaviour activities and encourage visitors to park there. The proposed and suggested use of the ground and first floors of the building will be for the NHS.

Block D is the existing Pannier Market which dates back to 1852 and the frontage was altered shortly after in 1865 to incorporate shops. The building is a Grade II listed building which is currently used for commercial uses. The proposal includes the demolition and associated works to adjoining structures to the south and west elevations of the Pannier Market including the removal of internal fixtures. 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. The proposal includes the creation of 2no. arched openings placed centrally in either gable and 2no. single, fire escape door openings on the southern elevation. The proposal also includes the existing ground floor openings will be infilled and the creation of 5no. arched window openings and 1no. single fire escape door opening on the western elevation. The proposal does not include any changes to the north and east elevations. A listed building consent application (ref: P/2025/0164) has been made concurrently.

The Neighbourhood Forum expressed major concerns about the original design of the proposed development, however in their updated response they have confirmed that the majority now accept the design. The supporting Design and Access Statement outlines that the proposal's site strategy priorities active frontages, pedestrian connectivity and urban cohesion, ensuring that new interventions are seamlessly integrated with the existing town centre grain while delivering a legible and well-defined urban framework. The proposal is for the demolition of the existing Union Square Shopping Centre to reconfigure the land use to assist in the long-term sustainability of the remaining retail offer in Torquay Town Centre. In terms of the proposed street spaces such would be relatively well overlooked by adjacent residential development.

The proposed development is considered to respond sensitively to the existing urban form while delivering an appropriate scale and density for a town-centre site. The applicant previously undertook feasibility work to identify the potential capacity of the site which was up to 250no. units, however such would have required much larger buildings. It is considered that the proposal respectfully reflects the existing built form and that the scale and massing is considered to be acceptable. Therefore, the proposal for 99no. units provides a suitable balance between housing delivery and placemaking.

The existing site does not include any soft landscaping. The proposal includes a landscape strategy that responds to the local character and reflects both the coastal setting of Torquay along with its natural rock formations. Within the proposed development, the use of boulders within planting schemes provide visual focal points and elements for seating, play and interaction. The proposal has also been carefully designed to provide framed views towards the quarry rock faces (between Blocks A and C) to reinforce the sense of place. The proposal also incorporates a public square and market space that will provide a landscaped central square that will pose as a flexible space for market events and outdoor café seating, provide

a visual landscape and focal point, as well as introducing soft landscaping to the built environment. A planning condition is recommended to secure appropriate street furniture, including elements such as seating, wayfinding, signage and bins.

3. Impact on Heritage Assets

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. 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 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.

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 66(1)), to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and (Section 72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

This statutory requirement needs to be considered alongside the NPPF which recognises that heritage assets range from sites and buildings of local historic value to those of the highest significance.

Paragraph 210 of the NPPF goes onto to state that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 of the NPPF considers that “*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*”.

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.

Paragraph 215 of the NPPF outlines 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.

The application site is not within but is in close proximity to several Conservation Areas (Upton, Abbey Road, Torquay Harbour and Warberries). The application site also includes the Grade II listed Pannier Market and is in close proximity to The Old Sessions House which is also a Grade II listed building.

The application has been supported by a Built Heritage, Townscape and Visual Impact Assessment. The Council's Conservation and Urban Design Officer has been consulted on the application and agrees with the conclusions of the supporting Heritage Statement, that the proposed development is unlikely to impact the setting of the adjacent Conservation Areas (Upton, Abbey Road, Warberries). The Officer concurs that that the proposed development would have a neutral impact on The Old Sessions House Grade II listed building. Historic England have not wished to comment upon the application.

In terms of the proposed regeneration works, the Officer has stated that with regard to the Pannier Market, its setting has been much altered over time with former regeneration projects including the construction of the Union Square MSCP and Union Square Shopping Centre. The proposed loss of the adjacent buildings within the townscape, contemporary with the construction of the Pannier Market would result in harm to its significance, to a lesser degree in some cases due to lack of quality. The buildings proposed to be demolished provide a reference points in the evolution of this area of the town.

Proposed Works to and Impact on Pannier Market

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 proposed external works to the Pannier Market as part of this application and the concurrent listed building consent application (ref: P/2025/0164) 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 accompanying listed building consent provides the justification for both the proposed internal and external works. 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 relevance to this application rather than the listed building consent.

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 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.

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.

4. Residential Amenity

Paragraph 135 of 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. 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.

In terms of location the application site is within Torquay Town Centre and is therefore considered to be in a sustainable location for the future use and well suited to a residential occupancy, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options.

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 99no. apartments through a mixture of 1-bedroom and 2-bedrooms. All apartments 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. Paragraph 130 of the NPPF outlines that when considering application for housing, Local Planning Authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site, so long as the resulting scheme would provide acceptable living standards. The applicant has provided a Daylight and Sunlight Assessment, the contents of which 95% of all rooms (225 out of 238 rooms) tested achieve their daylight provision targets. This is an overall high level of compliance with the BRE recommendations. Whilst there are isolated instances where the Daylight Provision targets are not met, the results are not abnormal in the context of an urban location. In terms of exposure to sunlight, 74 of the 99 units have a living room which faces 90 degrees of due south and which receives a total of at least 1.5 hours sunlight on 21 March. The BRE guide acknowledges that in some cases, it may not be possible for every dwelling to achieve ideal levels of sunlight.

In terms of noise, the proposed development will introduce residential accommodation to the ground floor and above levels, which at present this part of the town centre does not include any ground floor residential uses. The applicant has provided a Noise Impact Assessment, which concludes that the basic façade elements will provide sufficient protection against external noise ingress for all habitable rooms, aside from the single bedrooms overlooking Union Street which will require a slight improvement in glazing sound insulation. It can be demonstrated that sufficient mitigation can be provided for the ground floor units in Block A and no additional mitigation is required for the ground floor units in Block B to ensure appropriate noise levels for residents.

The Council's Senior Environmental Health Officer has been consulted on the application and has provided a list of planning conditions they recommend should be included to protect the

residential amenity of both future and existing occupiers. These planning conditions include: an Acoustic Insulation Implementation and Verification Plan; cumulative noise not exceeding certain decibels; restriction on opening hours for the commercial elements of the proposal; details of commercial kitchen extraction systems; external lighting; a Construction Environmental Management Plan and a full contamination investigation.

Policy DE3 of the Local Plan also seeks secure the provision of usable outdoor amenity space where apartments should deliver 10 square metres per unit either individually or communally. The Neighbourhood Plan is in alignment with this guidance as advised within Policy THW4, either as balconies or communal space. The scheme provides a communal greenspace that accumulatively exceeds the policy-guided minimum of 990 square metres, which provides an acceptable level of outdoor space for future occupants of the apartments. The ground floor flats of Block B will also have their own individual external amenity spaces.

In terms of Block B, there is likely to be tensions between the proximity and visibility between the ground floor occupiers of Block B and the walkway. Therefore, planning conditions are recommended to secure suitable boundary treatments / means of enclosure.

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.

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/Demolition Management Plan, this is recommended as a planning condition.

In terms of the finished development, the commercial use will align with nearby commercial uses and the Pannier Market will remain the same use class. A planning condition is recommended to secure the use classes of the new Class E commercial unit and the repurposing of the retained shopping centre floorspace sited below the existing Union Square MSCP for Class E uses. The Council's Senior Environmental Health Officer has been consulted and recommends a planning condition is employed to secure opening hours for the commercial elements.

The proposed mixed use aligns with the nearby commercial and residential uses. The proposed use would not result in undue noise or general disturbance. The move from commercial use to a residential use is likely to be positive. There are not many existing residential units adjacent to the application site, with many upper floors of commercial units remaining for use for the associated commercial businesses.

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 properties and occupiers, the majority of

the scheme broadly aligns with the aims and objectives of Policies SS11 and DE3 of the Local Plan, Policy THW4 of the Neighbourhood Plan and the guidance contained within the NPPF.

5. 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.

Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the development proposals are expected to meet the guideline requirements as set out in Appendix F of the Local Plan. Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TH9 of the Neighbourhood Plan outlines that all housing developments must meet the guideline parking requirements contained in the Local Plan, unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future. Furthermore, Policy TH9 of the Neighbourhood Plan confirms that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel. Policy THW5 of the Neighbourhood Plan outlines that to encourage the use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate.

Objectors have raised concerns regarding active/sustainable travel infrastructure. The application site is located off Union Street in the north west of Torquay Town Centre. Union Street is one-way in a southbound direction between Castle Circus and Market Street. On-street parking for blue badge holders is located on the majority of the eastern edge of Union Street, accompanied by loading bays and taxi waiting bays. An approximate 50 metre bus layby is also located on the east of Union Street which comprises 2no. sheltered bus stops. An advisory cycle lane is located adjacent on the on-street bays. The footway on both sides of Union Street is wide, with a minimum width of approximately 2.5 metres.

On the site's other boundaries are Market Street to the east, Castle Lane and the existing Union Square MSCP to the north and Castle Road to the west. Market Street is a two-way

arrangement enabling access to commercial and residential units. The street also provides access to Albert Road loading bay (for the existing Union Square Shopping Centre) and Union Square MSCP. The application has been supported by a Transport Assessment and WSP on behalf of the Highway Authority have reviewed the supporting information.

Trip Generation

In terms of the proposed residential development, the supporting Transport Assessment has provided total person trip rates demonstrating a total of 48 movements in the AM peak and 74 movements in the PM peak, stating that these trips would be accommodated on foot, cycle or public transport. The Highway Authority considers that the trip generation appears reasonable for a car free development. With regards to the proposed commercial element, the Transport Assessment has stated that there would be a total of 12 trips in the AM peak and 27 trips in the PM peak for 10,473sqm for commercial space. No comparative trip generation exercise for the commercial aspect has been conducted. In principle, the Highway Authority have considered the approach suitable. However, a net trip generation assessment would improve the robustness of the approach.

Highway Safety

The Transport Assessment has provided collision detail for January 2019-December 2023 for an area comprising the highway surrounding the site. The data has confirmed that 19no. collisions occurred in total, of which 4no. were serious and involved two pedestrians. However, the collisions occurred at different locations and cannot be attributed to any specific highway safety concern.

Highway Adoption

The Highway Authority has confirmed that they will look to continue to maintain the existing public highway once the development is completed, however, the Highway Authority have stated that they do not intend to adopt the internal access routes within the site.

Pedestrian and Cycle Access

The Transport Assessment states that there will be a number of potential pedestrian access points to the site in order to strengthen pedestrian permeability within the wider local area, in keeping with the aspirations to develop a '20-minute neighbourhood'. The proposed plans confirm that pedestrian and cycle access can be achieved from Market Street and Union Street.

The Neighbourhood Forum have raised a concern regarding the wider cycling infrastructure, stating that the Council needs to develop and find funding for a plan to bring cycling infrastructure in the immediate vicinity of Union Square up to safe, modern standards, connecting the site to both the Harbourside and Castle Circus. The Conservation and Urban Design Officer has commented that the generous red line of the site location plan enables the applicant to enhance and influence the public realm. The Officer has stated that it remains unclear how the proposed public realm encourages active travel, a dedicated servicing layby is proposed but no segregated cycle lane or integration with the existing cycle network.

Local Cycling and Walking Infrastructure Plans (LCWIPs) are a strategic approach to identifying cycling and walking improvements required at a local level. Within the document, the identification of key desire lines and the audit process, proposed 5no. major cycle routes

which were collectively branded “Bay Trails”, within such the Torquay Town Trail is relevant to the proposed development. The Torquay Town Trail is an off-carriageway/low traffic route linking Torquay Harbour, the town centre, the Torquay Grammar Schools, and the proposed new development at Edginswell. The LCWIP outlines that the route will utilise the existing pedestrian and cycle zone sections of central Torquay on Fleet Street and Union Street and incorporate wider public realm improvements on the northern part of Union Street. The LCWIP states that the Union Street Redevelopment as outlined in the Torquay Town Centre Masterplan, including the redevelopment of buildings could enable the removal of motor traffic from Union Street, providing more space for people, including enable two-way cycling.

The Neighbourhood Forum have suggest that a planning condition or obligation is employed to ensure that the site assists at fulfilling the objectives of the Local Cycling and Walking Infrastructure Plan. Given the site location plan, it is not reasonable to employ a planning condition or obligation, as the site location plan does not include the adopted highway carriageway within the red line, however the proposed public open space on the corner of the application site enables a cohesive space for interaction for both pedestrians and cyclists that contributes towards the aims and objectives of the LCWIP.

Public Transport Access

The site is considered to be well located for access to public transport with bus stops on Union Street and Market Street located less than 100 metres from the site. Torquay train station is also reasonably located, an approximate 22 minute walk to the south west.

The Highway Authority have stated that the applicant should consider whether any bus stop improvements are required, particularly the requirement for Kassel kerbing at locations on Market Street.

Vehicular Access and Car Parking

It is understood that the development is to be car free and that any additional demand on parking generated by the proposed development will be accommodated in the existing public car parks.

The applicant has not considered car parking, stating that this will be sorted through private arrangements should residents wish to park in the Union Square MSCP, where parking permits are available, however the opening hours are currently restricted. No consideration has been made to the operational timings of the car park and how this may impact residents access abilities. It is understood that the development aims to be car free and there are minimal vehicle trips forecast, however there will be some demand for parking for both residents and visitors. The applicant was repeatedly requested to discuss the matter with the Parking Services Department of the Council, no feedback has been provided on the matter.

Cycle Parking

The Transport Assessment confirms that cycle parking will be provided at a rate of 1 no. space per flat, which is line with the requirements within Appendix F of the Local Plan. Cycle parking for Block B is proposed within 2no. separate covered and secure lockups, whilst cycle parking for Block A is proposed within the building. For the commercial use, it is stated that the units will provide Sheffield stands in a highly visible, well lit location, suitable for short term parking. However, the location of these stands is not specified. Planning conditions are recommended

to secure suitable cycle storage arrangements for both the residential and commercial aspects of the proposed development.

Refuse / Servicing / Emergency Access

Servicing for the proposed residential uses and commercial unit within Blocks A and B will be from Union Street, whilst servicing for the repurposed commercial units within Block C and the Pannier Market (Block D) will be from Market Street, using Albert Road as per the existing arrangement.

The Transport Assessment states that the existing underutilised taxi bays on Union Street will be relocated to enable a repurposing of use for servicing vehicles, however no detail or information has been provided to state where these taxis bays are proposed to be relocated.

SWISCo were consulted on the application with regards to waste. The proposed bin storage for Block B would exceed the drag distances from the adopted highway network. Planning conditions are recommended to secure appropriate bin storage and waste collection arrangements through a Waste Management Plan.

Due to the internal layout not being adopted, a planning condition is recommended to ensure all access routes are kept clear and suitably retained for emergency access through a Road Management and Maintenance Plan.

Travel Plan

A planning condition is recommended to secure a Travel Plan specific to the end occupiers once known.

Planning Obligation

The Local Highway Authority have stated that they will seek the necessary S278 works or S106 planning contributions that are essential to make the scheme acceptable in planning terms. The adopted Planning Contributions and Affordable Housing Supplementary Planning Document at Section 4.3 seeks additional Sustainable Transport contributions for major schemes, where a £5,000 contribution is required for this proposal. The 'Local Financial Considerations' section of this report will cover such matters.

Overall

The Highway Authority have not raised an objection to the proposed development. Planning conditions are recommended at the end of this report to cover all relevant highway related matters. The Highway Authority have also outlined that the Highway Authority does not intend to adopt beyond the existing HMPE land. Subject to the planning conditions included at the end of this report, the proposal is considered to comply with Policies TA1, TA2, TA3 and W1 of the Local Plan, Policies TH9 and THW5 of the Neighbourhood Plan and the guidance contained within the NPPF.

6. 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.

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 and a Biodiversity Net Gain Metric. 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.

In terms of ecological enhancements, the Ecologist has recommended a planning condition is employed to secure such.

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, a Nesting Bird Mitigation Plan and an Ecological Enhancement Plan.

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 Ecologist has confirmed that the proposed development is exempt from the mandatory requirement due to it being within the de minimus threshold. An informative stated such should be included on the decision notice. The NPPF confirms that planning policies and decisions should contribute to and enhance the natural environment by providing net gains for biodiversity. The applicant has provided a BNG assessment and a high percentage net gain score of 875% has been predicted. The Ecologist has stated that such is a positive and is welcomed; however such is only useful for determining if a development delivers at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. The large figure is therefore not a reflection or overall biodiversity value, and a 1.1 unit increase. Urban Greening Factor is a more appropriate metric for these situations, and the views of the Council's Landscape Officers are more important than an ecology perspective. A planning condition is recommended to ensure that the proposed development secures a net gain.

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

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 the lack of green space. SWISCo's Senior Tree Officer has been consulted on the application. The Officer has confirmed that the application does not require any arboricultural enabling works due to the urban nature of the application area and the complete absence of trees. The proposed development proposes to deliver both high-quality private gardens and public realm provision which incorporates structural tree planting. The landscape objectives set out in the supporting information are broadly acceptable and the Officer is in agreement with these principles and their incorporation into the landscape scheme. The Officer considers that the location of the planting is broadly acceptable and responds well to the proposed use of the various site elements.

The public realm planting will provide framing to the Pannier Market and help with provision of urban greening in general. This is a valuable component of the scheme which will help to soften and fragment the built environment. The Officer has a concern with the public realm planting is the lack of species diversity, placing a reliance on Lime within the larger open space located on the corner of Union Street and Market Street. The Officer has highlighted

that throughout Torbay there is a plant pathogen which has colonised and killed young-mature lime trees in various situations. Therefore, a reliance on a single species lacks resilience to any potential existing or emerging plant pathogens and affords a level of risk to the long-term delivery of the structural tree planting.

Within the private external amenity spaces, the use of local species of fruit trees to provide limited fruit production is a suitable use for the communal areas. The Officer provided alternative species of trees where local performance is poor. A planning condition is recommended to secure suitable levels and species of soft landscaping.

Subject to the aforementioned planning condition, the proposal is considered to comply with Policy C4 of the Local Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

Paragraph 170 of the NPPF provides guidance towards avoiding inappropriate development in areas of flood risk by directing development away from areas at higher risk. Paragraph 181 of the NPPF states that when determining applications seeks local planning authorities to ensure that flood risk is not increased elsewhere.

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy ER2 of the Local Plan includes reference that development proposals should seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby surface water will discharge following the hierarchy of i) an adequate infiltration system (for example swales, soakaways, infiltration basins, filter drains, rain gardens), or where that is not reasonably practicable; ii) a main river or water course, or where that is not reasonably practicable; iii) a surface water sewer or highway drain, or in the last resort where none of the above are reasonably practicable; iv) to a combined (foul and surface water) sewer, where discharge is controlled to be at greenfield discharge rates.

The Union Street side of the site is located on the edge of Flood Zone 3, with the remainder of the site being located within Flood Zone 1 and the Critical Drainage Area as designated by the Environment Agency. Part of the application site is at risk from surface water flooding. The application has been supported by a flood risk assessment and a drainage strategy. The submission has been reviewed by the Council's Drainage Engineer and the Environment Agency.

The Environment Agency initially objected to the proposed development, due to the originally submitted Flood Risk Assessment failing to comply with the requirements for site-specific flood risk assessments and therefore fails to adequately assess the flood risks posed by the development. The Environment Agency were reconsulted on the revised Flood Risk Assessment and have subsequently removed their objection, subject to planning conditions being employed to secure built topographical levels, finished floor levels and the flood resistance and resilience measures outlined in the revised Flood Risk Assessment.

The Council's Drainage Engineer has been consulted on the application and has raised no objection subject to infiltration testing being undertaken in accordance with BRE365 at the proposed location and invert level of the soakaways prior to the commencement of development to confirm whether infiltration techniques such as soakaways are suitable. A planning condition is therefore recommended to secure surface water drainage.

Subject to the aforementioned planning conditions, the proposal is considered to comply with Policies ER1 and ER2 of the Local Plan and the guidance contained within the NPPF.

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 flood 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 states that the Local Plan will seek to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited. All major development proposals should make it clear how low-carbon design has been achieved, and how the following sequential energy hierarchy has been applied in doing so. Proposals should identify ways in which the development will maximise opportunities to achieve the following:

1. Conserve energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling;
2. Use energy efficiently within the fabric of the building;
3. Incorporate the use of decentralised heat, cooling and power systems; and
4. Use on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

The application is supported by a Sustainability and Energy Statement which includes the Council's Sustainability Checklist. The proposed development includes the installation of a solar PV array to offset the energy consumption of Block A, which the Council's Climate Strategy & Project Officer welcomes. The Officer has noted that a solar PV array has not been included for Block B, which would have provided the opportunity to further offset the energy consumption for Block B and support the efficiency of the communal heating system that has been proposed.

The Government's Future Homes Standard (FHS) is set to be introduced in 2025, which will require mandatory compliance. The FHS aims to significantly reduce carbon emissions in new homes, requiring a 75-80% reduction in carbon emissions compared to those new homes built under current regulations (Building Regulations Part L). The aim is to improve

energy efficiency and reduce the environmental impact of housing by ensuring new homes use low carbon technology such as very high-quality building fabric (structural materials, insulation etc.), triple glazing standards and low-carbon heating through heat pumps.

The applicant has considered the embodied carbon of the residential sections under the principles of the UK Net Zero Carbon Buildings Standard. However, such standards are voluntary and not required under current planning policies, the Officer has confirmed that schemes which follow these standards will be given greater weight in terms of decision making and meeting the requirements of Policy ES1 of the Local Plan. The Officer has recommended a planning condition to secure a detailed Energy and Sustainability Statement which meets the requirements of Policy SS14 and ES1 of the Local Plan. Subject to the aforementioned planning condition, 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

Paragraph 96 of the NPPF outlines that planning decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Paragraph 135 of the NPPF also emphasises such.

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 TH2 of the Neighbourhood Plan sets out that new development should provide a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

The application has been supported by a section within the submitted Design and Access Statement in relation to 'Community Safety'. Devon and Cornwall's Police Designing Out Crime Officer has been consulted on the application. The application site sits in the Neighbourhood Policing Beat area of Torquay Town Centre which in terms of demand for policing is in the top 5 beat areas of Devon and Cornwall and is currently the highest in the whole of South Devon Local Policing Area. With incidents such as assaults and violence, shoplifting, theft, criminal damage and anti-social behaviour among the highest.

The Officer has thoroughly reviewed the proposal and has noted areas of concern including unrestricted access to the rear of Block B; lack of vehicle mitigation measures to pathways and publicly accessible areas; seating near the Union Square MSCP that lacks natural surveillance; and the lack of improvement measures within the car parking levels of the Union Square MSCP.

The Officer has recommended that a planning condition is employed to ensure that the proposed development meets the standards of Secured By Design and seeks the award. The justification for such is that the development sits within a policing neighbourhood beat area which sees some of the highest demand in Torbay, the immediate area suffers with anti-social behaviour, it is therefore in the interest of preventing crime and disorder and the fear of crime to the potential tenants of both the commercial and residential aspects of the proposed development. Subject to the aforementioned planning condition, the proposal is

considered to accord with Policy SS11 of the Local Plan and Policy TH2 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

The proposed demolished commercial floorspace would equate to a loss of 5.7% of the total floorspace within Torquay Town Centre. The Torbay Retail Study confirms that Torquay Town Centre has been declining for a number of years and it is likely that the level of active commercial floorspace and turnover of the centre will continue to decline, which will have a negative impact on the vitality and viability of Torquay Town Centre. It has been demonstrated that whilst the proposed development may result in a minor negative impact on Torquay Town Centre retail turnover in quantitative terms, however there is no evidence to indicate that the development would have a '*significant adverse impact*' upon the vitality and viability of Torquay Town Centre.

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 including affordable housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance, with the benefit heightened by the inclusion of 20% of the units being Affordable units.

Public greenspace is to be provided, which is considered a social benefit of the scheme to the future occupiers and wider public.

The provision of housing would provide an appropriate use and offer units within a sustainable location. The retention of the Pannier Market and the repurposing of the ground and first floors of the Union Square MSCP for commercial uses will provide the community and future occupiers of Blocks A and B a commercial offering.

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, for reasons set out in this report there is considered to be less than substantial harm to the identified heritage asset of the Pannier Market. This harm is considered to be at the minor end of the scale and it outweighed by public benefits. The proposal is unlikely to impact the setting of the adjacent identified Conservation Areas (Upton, Abbey Road, Warberries) or their special interest. The proposal would result in a neutral impact to the setting of The Old Sessions House Grade II Listed building

Other elements that are considered to be especially relevant to the proposed development are impacts on trees, biodiversity and drainage. A landscaping scheme has been submitted which will provide a positive enhancement to the site and the proposal also provides low carbon and energy efficiency measures. These matters have been considered in detail above and weigh in favour of the proposal.

The proposed development is located in a sustainable location within close proximity to local amenities and public transportation links. This weighs in favour of the proposal.

It is concluded that the environmental impacts of the development, due to the adverse impact on the heritage asset weigh against the development, however the positive elements of the proposal in terms of a sustainable location, low carbon and energy efficiency measures, landscaping and drainage weigh in favour.

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:

For the proposal, which is a brownfield site and over 20 dwellings, Policy H2 of the Local Plan identifies that 20% affordable housing should be provided on site. For a scheme of 99no. units this equates to an affordable housing provision of 20no. units to provide a policy compliant development. Commuted sums will only be accepted where this would achieve more effective provision of affordable housing or bring significant regeneration benefits. The applicant has confirmed that 20% will be provided on-site.

CIL:

The land is situated in Charging Zone 1 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £30/sqm for 15+ dwellings.

The CIL liability 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.

Sustainable Transport:

In accordance with Policy SS7 of the Local Plan and the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) (to open market housing only) Sustainable Transport obligations should be secured.

However, such contributions cannot be sought due to 79no. open market units being CIL liable and the 20no. affordable units would be ineligible due to site deliverability matters.

Public Open Space, Sport and Recreation:

In accordance with the Council's Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022), residential developments are expected to provide public open space as part of their layouts to match the types of open space likely to be needed by residents, and enable a good level of access to sport, leisure and recreation facilities.

The breadth of facilities to support development are identified as:

- Playing Pitches
- Other Sport and Recreation Facilities
- Equipped play facilities for young people
- Greenspace/Open spaces
- Allotments/sustainable food production

However, such contributions cannot be sought due to 79no. open market units being CIL liable and the 20no. affordable units would be ineligible due to site deliverability matters.

Education:

Obligations in-line with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) should be sought to secure increased school capacity within Torquay, however, such contributions cannot be sought due to 79no. open market units being CIL liable and the 20no. affordable units would be ineligible due to site deliverability matters.

Lifelong Learning Obligations:

Obligations in-line with the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) should be sought to secure library improvements within the area. This contribution is not sought as 79no. open market units being CIL liable and the 20no. affordable units would be ineligible due to site deliverability matters.

Waste and Recycling:

Obligations in-line with the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) should be sought to secure waste and recycling facilities for properties that will be served by the Local Authority waste collection provider. This contribution is not sought as 79no. open market units being CIL liable and the 20no. affordable units would be ineligible due to site deliverability matters.

NHS Devon:

Torbay and South Devon NHS Foundation Trust and NHS Devon ICB have given their support to the proposed development, which will deliver significant benefits to the health and wellbeing of our local communities and play a key role in the regeneration of the town centre. The proposal seeks to include a GP surgery within the development as access to high-quality, local primary care is essential for improving health. Locating a GP practice in such a central, accessible location will not only enhance convenience for patients but also help to reduce pressure on other parts of the health and care system.

The inclusion of a GP surgery in Union Square represents a meaningful and forward-thinking investment in local health infrastructure and the Torbay and South Devon NHS Foundation Trust and NHS Devon ICB are pleased to endorse it.

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.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal and Development Plan policies.

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.

Development Plans often contain policies that pull in different directions and it is sometimes difficult to come to a view whether a proposal is in accordance with the Development plan "taken as a whole". Whilst the proposal is supported by policies in the Local Plan that seek to boost housing supply, there are conflicts with the Pannier Market (Policies HE1 and SS10 of the Local Plan and Policy TH10 of the Neighbourhood Plan). Whilst the harm to the Pannier Market has been assessed as being "less than substantial" it is sufficient to render the proposal not in accordance with the development plan.

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. The proposal is for 99no. residential units, which carries very substantial weight. 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].

The first issue is whether the application of NPPF policies related to heritage assets provides a strong reason for refusing the development.

Paragraph 210 of the NPPF states:

In determining applications, local planning authorities should take account of:

- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) The desirability of new development making a positive contribution to local character and distinctiveness.*

Paragraph 212 of the NPPF states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 214 of the NPPF states:

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

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, very substantial weight should be given to the provision of market and affordable homes.

Great weight should be given to the conservation of designated heritage assets. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be given when considering planning permission for developments that affect listed building or their settings. However, in this case the harm identified to the designated heritage asset of the Pannier Market from the proposal is assessed as the minor end of less than substantial harm.

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 and some of which would be affordable housing. 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 bicycle storage.

The proposed development will result in less than substantial harm to the Pannier Market, however the proposed development would provide significant regeneration benefits in terms of the provision of 99no. residential units and repurposing and refurbishing the commercial offering of Blocks C and D.

Paragraph 215 of the NPPF indicates that proposals that result in less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of the proposal, including where appropriate securing its optimal viable use. The level of harm identified is less than the threshold that would constitute a “strong reason” for refusal under paragraph 11(d)(i) of the Framework and the accompanying Footnote 7.

Attention then turns to Paragraph 11(d)(ii) which directs decision makers to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole. This can include a consideration of Development Plan policies. Particular regard should be given 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.

On balance, the public benefits of the scheme as a whole, when weighed against the level of harm caused, are considered to justify the proposal and the proposal is considered to represent sustainable development when considering the Local Plan, Neighbourhood Plan and NPPF taken as a whole as the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits.

Other than the less than substantial harm to the Pannier Market, there are no other adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits of the development.

In addition, the public benefits are a material consideration which weigh in favour of granting planning permission notwithstanding conflicts with some aspects of the development plan.

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 99no. 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 (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. The stated biodiversity net gain also weighs positively within the planning balance.

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.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Torquay 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 circumstances 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 clear reason for refusing the development proposed or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (99no. residential units), when assessed against the policies in the NPPF when taken as a whole. Subject to the recommended planning conditions, 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.

Officer Recommendation

Approval: subject to;

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. Completion of a Section 106 agreement.
3. Receiving a consultation response from Natural England to confirm no objection to the Council's Appropriate Assessment.
4. 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. Phasing Plan

Prior to the commencement of the development hereby permitted, a site wide phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved phasing plan. An up-to-date phasing plan and programme shall be maintained at all stages of the development hereby permitted. An up-to-date phasing plan should be submitted to and approved in writing by the Local Planning Authority immediately upon any amendments. Development shall be carried out in strict accordance with the approved phasing plan. Unless otherwise specified this condition does not prevent the construction of any phase being undertaken concurrently with any other phase.

Reason: To secure the programme for the delivery of key infrastructure and ensure that the Local Planning Authority is able to monitor the delivery of the development. To guide submission of details required by other conditions and to accord with planning guidance contained within the National Planning Policy Framework.

This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

2. Construction Management Plan

No development shall take place, including any works of demolition, until a site specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The plan should include, but not be limited to:

- a. Procedures for maintaining good neighbour relations including complaint management.
- b. The parking of vehicles of site operatives and visitors.
- c. Loading and unloading of plant and materials.
- d. Storage of plant and materials used in constructing the development.
- e. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- f. Wheel washing facilities.
- g. The adoption and use of the best practicable means to reduce and control the emission of dust and other airborne pollutants and dirt during construction.
- h. A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- i. The adoption and use of the best practicable means to reduce and control noise.
- j. 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.
- k. Construction working hours from 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 on Saturdays and at no time on Sundays or bank holidays. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

The approved Construction Management Plan development shall be adhered to and implemented throughout the construction period of the development strictly in accordance with the approved details.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

These details are required pre-commencement as specified to ensure that neighbouring amenity is not harmed by building operations or site preparation.

3. Construction Traffic Management Plan

Prior to the commencement of development (including demolition), a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall provide for:

- a) The parking of vehicles of site operatives and visitors;
- b) Loading and unloading of plant and materials;
- c) Storage of plant and materials used in constructing the development;
- d) Wheel washing facilities;
- e) Measures to control the emission of dust and dirt during construction;
- f) Delivery and construction working hours.

The development shall take place in accordance with the approved Construction Traffic Management Plan.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policies DE3, TA1, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

These details are required pre-commencement because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

4. Construction Environmental Management Plan

No development (including ground works) or vegetation clearance works shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Statement shall describe the actions that will be taken to protect the amenity of the locality, especially for people living and/or working nearby. It shall include as a minimum provisions for:

- A noise and vibration management plan, including details of quantitative monitoring of noise and/or vibration to be conducted.
- All plant and equipment based at the site to use white noise reversing alarms or a banksman unless agreed otherwise in writing in the CEMP.
- No driven piling without prior written consent from the Local Planning Authority.

- A detailed proactive and reactive dust management plan, including details of quantitative monitoring of dust emissions.
- No emissions of dust beyond the site boundary so as to cause harm to amenity of the locality.
- No burning on site during construction or site preparation works.
- All non-road mobile machinery (NRMM) based at the site shall be of at least stage IIIB emission standard (or higher if stage IIB has not been defined for the type of machinery) unless agreed otherwise in writing in the CEMP.
- The site access point(s) of all vehicles to the site during the construction phase.
- The areas for loading and unloading plant and materials.
- The location of the site compound and details of how power will be provided to the compound (use of a generator overnight will not normally be considered acceptable).
- The location of storage areas for plant and materials. This should include the location of stockpiles of topsoil and sub soil.
- The erection and maintenance of securing hoarding, if appropriate. (Hoarding is to be kept free of fly posting and graffiti).
- Arrangements for communication and liaison with local residents, including regular letter drops and a dedicated contact number for complaints.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

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

5. Demolition Method Statement

The works of demolition shall not commence before details of the method of demolition have been submitted to and approved in writing by the Local Planning Authority. The demolition shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity and to safeguard features of special architectural and historical interest and preserve the character and appearance of the Pannier Market in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policies TH8 and TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

These details are required pre-commencement because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

6. 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 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 works approved under planning permission reference P/2025/0164 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.

This condition needs to be a pre-commencement condition to protect visual amenity and heritage assets.

7. Details of Underbuild and Levels

Prior to the commencement of any development hereby approved, full details of any underbuild, site levels including landscaped areas and finished floor levels in relation to the units, shall have been submitted to and approved in writing to the Local Planning Authority. The development thereafter shall be built in strict accordance with the proposed details and levels as approved.

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

This pre-commencement condition is required to protect visual amenity.

8. Schedule of Works – Block D

Prior to any works being undertaken that affect Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), 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 of 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.

9. Expert Supervision – Block D

Prior to the commencement of works relating, affecting or impacting Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block

Reference)', received 22nd April 2025), the details of the appropriately qualified professional specialising in conservation work who will supervise the hereby approved works of alteration or demolition shall be submitted to and agreed in writing by the Local Planning Authority. Any proposed changes to the agreed supervision arrangements shall be subject to the prior written agreement of 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.

10. Building Recording – Block D

Prior to the commencement of works relating, affecting or impacting Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), 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.

11. 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.

Any details and evidence approved by the Local Planning Authority pertaining to Condition 11 shall be thereafter included as an appendix to the building record as required by Condition 10 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.

12. Hidden Historic Features – Block D

During the works, if hidden historic features are revealed relating to Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block

Reference)', received 22nd April 2025), 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.

13. External Materials – Blocks A and B

Prior to their installation, technical details and/or samples of the proposed exterior materials relating to Blocks A and B as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025) including wall finishes, roofing materials, 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 TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

14. Stone Cleaning – Block D

No work shall commence on the stone cleaning across any elevation of Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), until a sample panel has been provided insitu to establish the final parameters of the stone cleaning and this sample panel shall be approved 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.

15. Masonry Cleaning & Painting – Block D

No cleaning of masonry, other than low pressure (20-100 psi) surface cleaning using a nebulous water spray across any elevation of Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025) 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.

16. Matching Details – Block D

All new external and internal works and finishes and works of making good to the retained fabric of Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), 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.

17. Windows and Doors – Block D

Notwithstanding the approved plans and details, prior to the installation of new windows and doors relating to Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), 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
- Frame and door materials

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

Reason: In the interest of visual amenity and in accordance with Policy DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policies TH8 and TH10 of the Adopted Torquay Neighbourhood Plan 2012-2030.

18. Joinery Details – Block D

Notwithstanding the approved plans and details, no installation of any new opening relating to Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), shall commence until the following has been 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 be carried out only in accordance with the approved details and 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.

19. Removal of Redundant Infrastructure/Services – Block D

Prior to the first use of Block D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), 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.

20. External Materials – Block C

Prior to their installation, technical details and/or samples of the proposed exterior materials relating to Block C as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025) including cladding materials and openings 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 TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

21. Boundary Treatments

Notwithstanding the approved plans and details, prior to the first occupation of the residential development hereby approved and referenced as Blocks A and B as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), 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. The scheme of boundary treatment shall include a scheme of mitigation, to protect the amenities of the future occupiers of the Level 0 units (7, 8, 9, 10, 11, 12, 13, 14) of Block A as indicated on approved plan (ref: '4695-TQUS-HMA-AA-ZZ-D-A-00200 S2-P09 (Block A L0)', received 4th August 2025) and the ground floor units (1a, 2a, 3a, 4a, 5a, 6a, 7a) of Block B as indicated on approved plan (ref: '4695-TQUS-HMA-BB-ZZ-D-A-00200 S2-P05 (block B GF)', received 25th March 2025) which shall be 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 TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

22. Street Furniture

Notwithstanding the approved plans, no development above ground level shall take place in each approved phase until details (including siting/alignment, type and appearance including materials/finishes) of the proposed street furniture (including refuse bins, signage, wayfinding, seating, bollards, lockers, railings, handrails, bicycle stands, and other means of enclosure) in the area of that relevant phase have been submitted to and approved in writing by the Local Planning Authority. Prior to the completion of each approved phase, the street furniture shall be installed in accordance with the approved details and retained and managed for the lifetime of the development.

Reason: In the interests of design and in order to accord with Policy DE1 of the Adopted Torbay Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

23. Surface Water Drainage

Prior to the commencement of development, excluding the demolition works, a detailed surface water drainage scheme for the site shall have been submitted to the Local Planning Authority in writing. Priority shall be given to sustainable urban drainage systems, where soakaways must be designed in accordance with Building Research Establishment Digest 365 and include details of how they have been designed to cater for the 1 in 100 year critical rainfall event plus 50% allowance for climate change. Evidence that trial holes and infiltration tests have been carried out in accordance with Building Research Establishment Digest 365 in the same location as any soakaways or sustainable drainage features must be provided. The scheme shall demonstrate that there

will be no increased risk of flooding to surrounding buildings, roads and land. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations.

The development shall not be occupied or brought into use until an approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

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 and the guidance contained in the National Planning Policy Framework.

24. Topographical Levels – Floodwater

The topographical levels should be built in accordance with drawing TQUS-CDY-XX-XX-D-C-0020 P01. No alterations to site levels shall take place that would adversely affect the conveyance of floodwater or reduce floodplain storage unless alternative details have first been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. Any alternative details which are agreed shall be strictly adhered to.

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 and the guidance contained within the National Planning Policy Framework.

25. Finished Floor Levels – Block A

All residential units within Block A as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025) shall have finished floor levels set no lower than 16.21m AOD, providing a minimum of 600mm freeboard above the lowest adjacent ground level.

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 and the guidance contained within the National Planning Policy Framework.

26. Flood Resistance and Resilience

The development shall incorporate flood resistance and resilience measures as outlined in the approved Flood Risk Assessment and Drainage Strategy (ref: 'TQUS-CDY-ZZ-XX-T-C-0003-50452w0011-P06 (inc. drainage strategy)', received 25th March 2025). The approved flood resistance and resilience measures shall be installed and implemented prior to the first occupation of the development hereby approved and shall operate and be maintained for the lifetime of 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 and the guidance contained within the National Planning Policy Framework.

27. Bicycle Storage – Residential

Notwithstanding the approved plans and details, prior to the first occupation of the residential development hereby approved and referenced as Blocks A and B as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), details of the proposed covered and secure bicycle storage facilities for 1no. cycle per residential flat shall be submitted to and agreed in writing by the Local Planning Authority. The cycle storage facilities shall be provided in accordance with the approved details prior to first occupation of any of the residential development and maintained and 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.

28. Bicycle Storage – Commercial

Notwithstanding the approved plans and details, prior to the first occupation of the commercial development hereby approved and referenced as Blocks C and D as identified in the approved plan (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025), details of the proposed secure bicycle storage facilities to serve the commercial developments within Blocks A, C and D (ref: '4695-TQUS-HMA-ZZ-ZZ-D-A-00002 S2-P01 (Block Reference)', received 22nd April 2025) shall be submitted to and agreed in writing by the Local Planning Authority. The cycle storage facilities shall be provided in accordance with the approved details prior to first occupation of any of the commercial development and maintained and 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.

29. Travel Plan

Prior to the first use of the development hereby approved, a Travel Plan and Implementation Strategy with SMART targets to seek to meet Policy requirements of 30% modal shift to foot, cycle and public transport, with appropriate mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall then proceed in accordance with the approved travel plan thereafter.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling in accordance with Policy TA1 of the Adopted Torbay Local Plan 2012-2030.

30. Bin Storage – Residential

Notwithstanding the approved plans and details, prior to the first occupation of the residential development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained and maintained 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.

31. Bin Storage – Commercial

Notwithstanding the approved plans and details, prior to the first occupation of the commercial development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained and maintained 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.

32. Waste Management Plan

Prior to the first occupation or first use 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 a suitable waste collection that accords with Policies W1 and W2 of the Adopted Torbay Local Plan 2012-2030.

33. Road Management and Maintenance Plan

Prior to the first occupation or use of the development hereby approved, a Road Maintenance Plan 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 road shall be privately maintained, no residential unit 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 (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 residential units.
- 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.
- 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 residential unit shall be occupied unless it connects directly to a road (including a footway and / or 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.

34. Designing Out Crime

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, and the

measures shall be incorporated into the development prior to that part of the development to which they relate being brought into use and shall be permanently retained thereafter.

Reason: In the interests of crime prevention in accordance with Policy DE1 and SS11 of the Adopted Torbay Local Plan 2012-2030 and Policy TH2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

35. 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 and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

36. 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) and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

These details are required pre-commencement as specified to ensure that biodiversity and protected species are not harmed by building operations.

37. Ecological Enhancement Plan

Prior to the commencement of development, an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the quantum, type, and location of faunal enhancement features, specifically swift boxes, house sparrow terraces, bat boxes, and insect bricks, all of which shall be integrated into the fabric of the building (e.g. built-in or flush-mounted units). The approved measures shall be installed prior to the occupation of the development and retained thereafter.

Reason: To enhance ecological value and support protected and priority species through the provision of targeted faunal features, in accordance with the National Planning Policy

Framework, Section 40 of the Natural Environment and Rural Communities Act 2006, and Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

These details are required pre-commencement as specified to ensure that biodiversity and protected species are not harmed by building operations.

38. Energy and Sustainability

A detailed energy and sustainability statement shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the development hereby approved. The statement shall identify the specific details that will be incorporated into the site including how the proposed development:

1. Conserves energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling,
2. Uses energy efficiently within the fabric of the building,
3. Uses on-site renewable technologies to achieve 20% reduction in carbon emissions,
4. Minimises water consumption and run-off,
5. Uses construction methods and materials to reduce carbon release,
6. Minimises waste.

The Statement shall be accompanied by detailed plans and elevations that demonstrate the incorporation of these details into the design of the development. The approved details shall be implemented in full prior to the occupation of the development and retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In interests of low carbon development and in accordance with Policy SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

39. Soft Landscaping

Notwithstanding the approved plans, prior to first occupation of the development hereby approved a soft landscape scheme shall be submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.

All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development. 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.

40. Hard Landscaping

Notwithstanding the approved plans, no development shall take place in each approved phase which involves the provision of hard surfacing materials until details of the materials to be used in the relevant area have been submitted to and approved in writing by the Local Planning Authority. Thereafter the works shall be fully implemented in accordance with the approved details prior to the first occupation of the development hereby approved and shall be retained for the lifetime of the development. The details for approval shall include a detailed scheme of:

- a) Type/texture/colour finishes (including any samples as may be necessary) including at key public realm and historic areas; and
- b) The proposed pattern treatments to add local distinctiveness within the floorspace at key public realm areas.

Reason: In the interests of design and in order to accord with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

41. External Amenity Spaces

Prior to the first occupation of any residential unit hereby approved, the external amenity spaces, detailed on the approved plan (ref: '4695-TQUS-HMA-ZZ-00-D-A-00001 S2-P08 (Site Plan)', received 29th April 2025) shall be provided in full. The external amenity spaces shall thereafter be maintained and retained as such for the use of the development's occupiers for the lifetime of the development.

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

42. Removal of Permitted Development Rights C3 to C4

Notwithstanding the provisions of Class L of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), the residential use of any one or more units hereby approved shall not be changed to a House in Multiple Occupation, 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 the living environment conditions in this locality in accordance with Policies DE1, DE3, H4 and SS11 of the Adopted Torbay Local Plan 2012-2030.

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

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 (or any order revoking or re-enacting that Order with or without modification), 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 TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

44. Removal of Permitted Development Rights Schedule 2, Part 7, Class A

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

Reason: To maintain an acceptable form of development in accordance with Policies DE1, TA2, TA3, C4, NC1 and ER1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

45. Acoustic Insulation Implementation and Verification Plan

Prior to commencement of any construction (excluding demolition and site clearance) of the development hereby approved, an Acoustic Insulation Implementation and Verification Plan shall be submitted and approved in writing by the Local Planning Authority. This plan shall include details of the insulation to be installed and describe how the installation shall be tested so as to demonstrate the achievement of suitable internal noise levels.

Prior to the occupation of the development hereby approved an Acoustic Installation Verification Report shall be submitted. This report shall document the successful completion of the acoustic insulation work which shall accord with the previously approved details and shall include post installation testing.

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

46. Cumulative Noise – Plant and Equipment

Cumulative noise from all building services plant and equipment shall not exceed a rating noise level of 41dB (07:00 to 23:00) and 37dB (23:00 to 07:00) (measured in accordance with BS4142) at 1 metre from the façade of any noise sensitive receptor.

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

47. Opening Hours – Use Class E

The Use Class E uses hereby approved, including within the Pannier Market, shall not operate outside the hours of 07:00 to 23:00.

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

48. Contaminated Land

No development shall take place (including demolition) until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been submitted to and agreed in writing by the Local Planning Authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy ER3 of the Adopted Torbay Local Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

These details are required pre-commencement as specified to ensure that contaminated material is not released into the environment from building operations and there are no risks to workers, neighbours or other receptors.

49. External Lighting

Prior to the first occupation of the development hereby approved, a scheme of external lighting shall be 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 submitted scheme shall include a lighting assessment with measures to prevent light-spill into the surrounding area and on the nearest receptors. The external lighting shall thereafter be installed, operated and maintained operated in accordance with the approved details for the lifetime of the development and no further external lighting shall be installed.

Reason: In the interests of residential amenity and in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030.

50. Additional Paraphernalia

No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless the full details have first been submitted to and approved in writing by the Local Planning Authority. This shall include air conditioning units, extraction equipment, aerials, tanks,

satellite dishes and external lighting. Development shall then proceed strictly in accordance with the approved details.

Reason: In the interests of the visual amenities of the area, in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

51. Commercial Kitchen Extractions

Before the commencement of use of any commercial kitchen within the development hereby approved, a scheme for the installation of equipment to control the emission of fumes and smell from that kitchen shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and maintained in operation thereafter.

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

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

C4 - Trees, Hedgerows and Natural Landscape Features

DE1 - Design

DE3 - Development Amenity

DE4 - Building Heights

ER1 - Flood Risk

ER2 - Water Management

ES1 - Energy

H1 - Applications for New Homes

HE1 - Listed Buildings

NC1 - Biodiversity and Geodiversity

SDT1 - Torquay

SDT2 - Torquay Town Centre and Harbour

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

TC1 - Town Centres

TC2 - Torbay Retail Hierarchy

TC4 - Change of Retail Use

W1 - Waste Hierarchy

W5 - Waste Water Disposal

TS1 - Sustainable Development

TS4 - Support for Brownfield and Greenfield Development

TH8 - Established Architecture

TH9 - Parking Facilities

TH10 - Protection of the Historic Built Environment

TE5 - Protected species habitats and biodiversity

TH2 - Designing Out Crime

THW4 - Outside Space Provision

THW5 - Access to Sustainable Transport