

Friday, 3 November 2023

PLANNING COMMITTEE

A meeting of **Planning Committee** will be held on

Monday, 13 November 2023

commencing at **2.00 pm**

The meeting will be held in the Burdett Room, Riviera International Conference Centre, Chestnut Avenue, Torquay TQ2 5LZ

Members of the Committee

Councillor Jacqueline Thomas (Chairwoman)

Councillor Billings (Vice-Chair)

Councillor Fox

Councillor Cowell

Councillor Pentney

Councillor Mandy Darling

Councillor Tolchard

Together Torbay will thrive

Download this agenda via the free modern.gov app on your [iPad](#), [Android Device](#) or [Blackberry Playbook](#). For information relating to this meeting or to request a copy in another format or language please contact:

Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 16 October 2023.

(Pages 4 - 7)

3. **Disclosure of Interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda.

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairwoman decides are urgent.

5. **Railway Corridor (Edginswell Railway Station), Off Newton Road, Torquay (P/2023/0708)**

(Pages 8 - 37)

Construction of new railway station with pedestrian access from existing highway both to north (Riviera Way) and south (Newton Road). Works to provide new railway station include two platforms, fully accessible lift footbridge with elevated walkway to north with associated infrastructure to include waiting shelter, lighting, CCTV, cycle parking with shelter and signage.

6. **Waddeton Approach, Waddeton Close, Paignton (P/2023/0621)**

(Pages 38 - 80)

Outline application for residential development of up to 60 dwellings, commercial space and associated works. Details of access to be

determined with all other matters reserved.

7. **Merida, Parkhill Road, Torquay (P/2023/0330)**
Maintenance, repair, refurbishment and alteration works.

(Pages 81 - 99)

Public Speaking

If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.

We are using hybrid meeting arrangements to give registered speakers the opportunity to either attend the meeting in person to give their views or to attend the meeting remotely via Zoom. If you would like to attend the meeting remotely to speak you will be provided with a Zoom link to join the meeting. We also ask that you provide a copy of your speech to governance.support@torbay.gov.uk, before 11 am on the day of the meeting, so that the Clerk will be able to continue to read out your speech if you lose connection or cannot be heard in the physical meeting. Remote attendees who lose connection may still be able to follow the meeting via the live stream on the Council's YouTube channel.

Councillors who are not members of the Planning Committee will also be able to join the meeting via Zoom and must use their raise hand function to declare any interests.

Site Visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 8 November 2023. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Live Streaming

To encourage more people to engage in our public meetings the Council is trialling streaming our Planning Committee meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

We are also using hybrid meeting arrangements to enable registered speakers to either attend the meeting in person or to attend the meeting remotely via Zoom. **Anyone attending the meeting remotely must register their intention to do so by 11 am on the day of the meeting and provide a copy of their speech to governance.support@torbay.gov.uk by this deadline.** If anyone attending the meeting remotely loses connection the meeting will continue and their speech will be read out by the Clerk and they will have the option to follow the meeting via the YouTube live stream.

Minutes of the Planning Committee

16 October 2023

-: Present :-

Councillor Jacqueline Thomas (Chairwoman)

Councillors Billings (Vice-Chair), Fox, Hutchings, Maddison and Tolchard

28. Apologies for absence

Apologies for absence were received from Councillors Cowell and Pentney for this meeting only.

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended to include Councillor Hutchings in place of Councillor Joyce for this meeting only.

29. Minutes

The minutes of the meeting of the Committee held on 18 September 2023 were confirmed as a correct record and signed by the Chairman.

30. Recommendation for Adoption of the Local Validation List

The Principal Planning Officer presented the Local List for Validating Planning Applications (“the Local List”) as set out in the submitted report.

Members were informed that the Local List had been updated to account for changes in national and local requirements with significant changes to the format of the document. The updated version of the Local List would replace the existing version which had been adopted in 2018. It was a requirement of the National Planning Policy Framework that the document was regularly reviewed and it established the information required to support an application.

The Principal Planning Officer explained that the aim of the update was to make the document shorter and easier to use; help applicants identify what information they needed to submit an application based on site constraints and the nature of the scheme; achieve consistency with other Local Authorities across Devon and would be of benefit to both applicants and decision-makers. There had been a six week consultation period between 14 August 2023 and 25 September 2023, engaging with

statutory and non-statutory consultees. Eleven responses had been received, a vast majority of which resulted in changes to the document.

Members acknowledged and commended officers' work in updating the Local List and it was recognised that it had been extremely well received particularly by the Agents' Forum.

Resolved:

The Local Validation List as set in Appendix 1 to the submitted report be endorsed by the Planning Committee and that the Divisional Director for Planning, Housing and Climate Emergency implements the updated List for use in respect of planning applications received after 1 November 2023.

31. Torbay Holiday Motel, Collaton St Mary (P/2022/0771)

The Committee considered an outline application for demolition and redevelopment of up to 30 dwellings with detailed access (matters of appearance, landscaping, layout and scale reserved) (as revised by plans received on 28 April 2023).

Prior to the meeting, written representations were available on the Council's website. At the meeting Mr Michael Drake addressed the Committee in support of the application.

At the meeting the Planning Officer advised that the application had previously been considered by the Committee on 24 July 2023 and was approved subject to three additional conditions, two of which had been agreed with the applicant. However, due to an inability to agree the imposition of the third condition, the application was returned to Committee with an officer assessment and a revised recommendation for Members' consideration. The additional key issue was the sale of the Beechdown Court Apartments and the impact of this on the Committee's previous resolution to include a condition securing a scheme of landscape and appearance enhancements.

Members were informed that as the applicant no longer had control over Beechdown Court, the existing condition would be viewed as unreasonable and unenforceable under National Planning Policy Framework guidance on the use of planning conditions for land not in control of the applicant.

Resolved (unanimously):

Approved subject to:

1. The conditions outlined in the submitted report, to include additional conditions (a) and (b) of the Planning Committee resolution made 24th July 2023, with the final drafting of conditions delegated to the Divisional Director - Planning, Housing & Climate Emergency;
2. The completion of a S106 Legal Agreement to secure heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers;

3. Additional condition to secure landscape enhancements and a schedule of works to improve the visual appearance of Beechdown Court, or in the absence such, an alternative scheme of landscape enhancements to the wider public realm within the area, and;
4. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director - Planning, Housing & Climate Emergency, including the addition of any necessary further planning conditions or obligations.

32. Dawn, Brim Hill, Torquay (P/2023/0418)

The Committee considered an application for variation of appeal conditions relating to application P/2020/1044: Extensions and renovations to existing house and garage; single storey lower ground floor extension to rear (SE) with terrace over; two storey side extension (SW); single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration. Conditions: 02 - Approved Plans, 03 - Materials Schedule (Stone Walls). Variations sought: revised drawings and schedule document.

Prior to the meeting written representations were available on the Council's website. At the meeting Mr Carl Taylor addressed the Committee against the application and Ms Linda McCormick of the Maidencombe Residents' Association the Committee against the application. Ms Julie Brandon addressed the Committee on behalf of the Torquay Neighbourhood Forum against the application. Mr Tony Payne addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that the applicant's current proposals sought to regularise a number of departures that had been made to the plans previously approved under reference P/2020/1044 during the ongoing build on site. The applicant proposed a new obscure glazed window in the lower ground floor of the south west elevation; omission of the approved window in the north east elevation and enlarged window in the ground floor of the south east elevation; omission of the approved chimney; change to the colour of the approved stone cladding; three rooflights in the approved single storey extension in the south west elevation and approved gable features in the north east elevation to be lowered in height.

Resolved:

Approved subject to:

1. the condition as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.; and
2. 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.

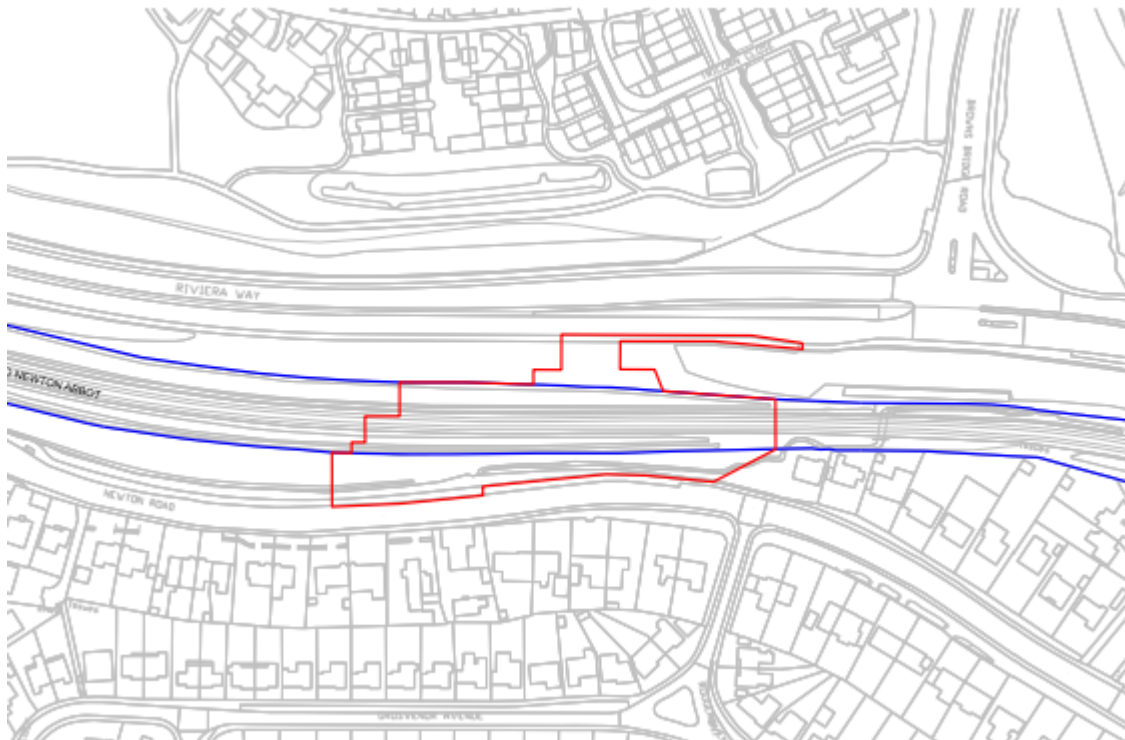
Chairwoman

TORBAY COUNCIL

Application Site Address	Railway Corridor (Edginswell Railway Station) Off Newton Road Torquay TQ2 7AH
Proposal	Construction of new railway station with pedestrian access from existing highway both to north (Riviera Way) and south (Newton Road). Works to provide new railway station include two platforms, fully accessible lift footbridge with elevated walkway to north with associated infrastructure to include waiting shelter, lighting, CCTV, cycle parking with shelter and signage.
Application Number	P/2023/0708
Applicant	Mr Colin Field
Agent	Network Rail Infrastructure Limited
Date Application Valid	17.10.2022
Decision Due date	16.01.2023
Extension of Time Date	31.10.2023
Recommendation	<p>Approval: Subject to;</p> <p>The receipt of satisfactory comments from the Environment Agency regarding the developments flood resilience, delegated to the Divisional Director - Planning, Housing & Climate Emergency.</p> <p>The conditions outlined, with final wording delegated to the Divisional Director - Planning, Housing & Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director - Planning, Housing & Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Development partly on Council land with objections received.
Planning Case Officer	Scott Jones

Location Plan

7



Site Details

The site is land between Riviera Way and Newton Road that encompasses approximately 175m of rail land, areas of adjacent embankments, and a section of Council-owned green space that sits adjacent to the Newton Road, which is largely laid with formal managed grass with intermittent mature trees present. The site also includes a linear strip of highway verge adjacent to Riviera Way to the north of the rail line. At its widest point the site is approximately 55m from north-to-south.

The embankments to both the north and south of the rail line are principally scrub/woodland habitat, which sit as part of a linear ecological corridor identified as a Local Wildlife Site within the Torbay Local Plan. The site also sits within the wider boundaries of the Riviera Way Urban Landscape Protection Area, as identified under Policy C5 of the Torbay Local Plan.

The land adjacent to Newton Road that is largely laid to grass with trees is a designated Local Green Space, as identified within the Torquay Neighbourhood Plan (TLGSS1 - Cadewell Park Green). The application site encompasses a small section of this wider linear greenspace and a section of the adjacent footway.

The Aller Brook watercourse runs east-west within the area of the greenspace adjacent to Newton Road and the area is identified as having a higher risk of flooding, being Flood Zone 2 and 3 (High Risk) and is prone to surface water flooding.

The site is also identified within the Torbay Local Plan as the location for a proposed

railway station and the Torquay Neighbourhood Plan also references the community aspiration for a rail halt in this area (the vicinity of Edginswell Business Park).

Description of Development

Full planning permission is sought for the provision of a rail halt (unstaffed rail station) and associated infrastructure.

The proposal includes two platforms with a footbridge link over. Each platform has stairs and an access lift. The platforms are approximately 128m long. The platforms are approximately 1m above the established rail line, the upper sides of the footbridge are approximately 7m above the proposed platform level, and the lift columns rise slightly higher, finishing 9.3m above the platform level.

In terms of materials the lift towers are clad in a copper finish, the footbridge and stairs are to be painted a dark green, platform fencing will be galvanised with a black coating, and outer boundary, anti-climb fencing, will green coated.

To the north side towards Riviera Way the proposal includes a raised footway bridging the drop in levels from the adjacent highway to the footbridge and platforms. The proposals also include the extension of the existing footpath from the east to link the development to the public footpath network, where it presently terminates at a nearby bus stop near to the entrance to 'The Willows'.

To the southern side adjacent to the Newton Road the platform includes a low-level ramp that bridges a drop in levels towards a created area of hardstand that defines the entrance to the facility connection to the existing footway and the Newton Road. Within this area three cycle shelters providing 11 stands (capacity for 22 cycles) is also proposed.

Lighting and CCTV, together with platform shelters, seating and fencing are also included.

Pre-Application Enquiry

Informal pre-application advice given in terms of update documents and validation requirements following the recent consent over the land for a rail under planning reference P/2016/0078.

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

- The Torquay Neighbourhood Plan

Material Considerations

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

Relevant Planning History

Applications

P/2016/0078: Construction of a new railway station to include the following: Two single sided station platforms, provision of a footbridge between platforms, elevated walkway and access ramps, cycle spaces, extended footpath along Riviera Way, lighting and CCTV, and platform furniture to include shelter and signage. Approved 17.11.2016.

Summary of Representations

5 representations have been submitted, 1 in support, 4 citing objections.

Supporting comment in terms of providing a facility and improvement in design without the ramps previously proposed, but a noted concern if crossing improvements aren't secured.

Concerns/objections covered the following issues:

- traffic and access (in the context of the function of the station being to serve the Torbay Hospital.
- Drainage is a concern as it removes vegetation in a sensitive area.
- Privacy/light pollution/ noise nuisance from use.
- Impact on wildlife.
- Ramps are a better access option for this station compared to relying on lifts.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

The Torquay Neighbourhood Plan includes an overall Community Aspiration: "The community supports the proposed new rail station at Edginswell but without general parking as this is deemed unnecessary in this location due to close proximity to the Hospital, retail areas and Future Growth Area." Similarly, a railway station at Edginswell is promoted in the Torbay Local Plan. On the other hand, the Shiphay and the Willows Community Partnership Aspiration in the Neighbourhood Plan states: "A new rail halt is proposed in the vicinity of the Edginswell business park. Appropriate, limited accessible car parking should be provided."

The original 2015 Transport Statement proposed a small car park with 29 bays. The current Transport Statement and Plans have dropped the provision of parking facilities. While this is laudable in terms of promoting sustainable transport (walking and cycling), in reality it is likely that a number of passengers will continue to use cars, especially during inclement weather. There is already parking congestion on Newton Road, and the expansion of Edginswell Business Park is expected to increase the demand for parking.

The Forum supports the Planning Application in principle. It will promote sustainable transport for the Edginswell Future Growth Area. The station will provide an arrival facility for those working at the employment sites, and a commuter facility for the residents of Edginswell, Shiphay, and the Willows.

However, the Forum requests that the provision of parking for 29 cars is restored. We also question whether provision of space for 22 cycles will be sufficient.

Torbay Council Strategic Planning and Transport

This application is supported. The station is a long-term objective of the Council, as set out within the Local Transport Plan and Local Plan, as well as references in the Torquay Neighbourhood Plan. The station forms a part of the Devon Metro proposal providing improved rail services and infrastructure across Devon, in particular linking to Exeter.

The scheme has developed over the years and with various funding opportunities to what is presented today. This provides a station that is accessible to all for the community around Shiphay and the Willows in particular, and also for those needing to access employment, education and healthcare facilities in the vicinity, not least Torbay Hospital.

The station is part of a bigger local transport improvement programme for the area, including improvements to junctions, road capacity, bus infrastructure, walking routes and cycling facilities (delivered and proposed) around the station site.

Torbay Council Highway Authority:

The Highway Authority supports the principle of development proposed however the following information is required for clarification before a formal recommendation can be made:

- Clarify whether 12 or 22 cycle parking spaces are to be provided;
- Demonstrate through an On-street Parking occupancy survey that the loss of existing on-road car parking spaces will not exacerbate car parking pressures on the nearby highway network; and
- Clarify if a drop-off point for passengers is to be provided.

(Officer comment: In response to the above the applicant has advised that x11 cycle stands permitting 22 bicycles to be provided. That no additional car parking spaces are proposed as there is a need to encourage a modal shift away from cars and the strategic case for the Railway Station itself mitigates some of the demand for parking in the area. And that modifications to the public highway for drop-off and blue badge spaces will be delivered via Torbay Council. The applicant also stated that they

support a future travel plan being controlled/ required by a pre-occupation planning condition. An update response from the Highway Authority is pending).

Drainage Engineer (Torbay Development Agency):

Following the receipt of the revised/updated Flood Risk Assessment the proposal is deemed acceptable.

The applicant has submitted a revised flood risk assessment that again identifies the surface water drainage from the new railway station will be discharged to the adjacent Aller Brook watercourse at a controlled discharge rate.

The flood risk assessment and the proposed surface water drainage has been designed in order that no properties on the development are at risk of flooding, and there is no increased risk of flooding to property and land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.

Based on the revised detail there is no objection on drainage grounds to planning permission being granted for this development.

Environment Agency

Recommend that this application is not determined until further information is submitted relating to flood risk and biodiversity impacts. At this juncture, the information submitted cannot be used to inform a determination as important details and assessments are missing from the application as submitted.

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

Advice on pollution prevention: The proposal would include works in close proximity to the river during the construction phase. It is therefore essential that the applicant is committed to putting measures in place to prevent pollution reaching the watercourse(s) in the vicinity. The submitted Construction Environment Management Plan (CEMP) considers various potential risks to the water environment but does not specify exactly how pollution may be prevented. We would recommend that your authority does not determine the application until you have confidence that the measures proposed are robust and enforceable.

(Officer Comment: A revised Flood Risk Assessment has been submitted and is currently being considered by the Environment Agency and their further response is pending. Impact on biodiversity is considered by Devon County Council).

South West Water

Asset Protection

Please note that no development will be permitted within 3.5 metres of the water main, and ground cover should not be substantially altered. Should the development encroach on the 3.5 metre easement, the trunk main will need to be diverted at the expense of the applicant.

Surface Water

The applicant should demonstrate that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable. Ground (infiltration) is South West Water's preferred method and meets with the Run-off Destination Hierarchy.

Police Designing Out Crime Officer

Planning applications for railways and train stations this falls within the jurisdiction of British Transport Police and their Designing Out Crime Officers who provide advice and recommendations. I can confirm we have been in discussion with throughout the planning stages and providing them with local information as requested.

British Transport Police

BTP have been consulted with regards the project and took part in a Crime Threat and Vulnerability Risk Assessment (CTVRA) exercise with stakeholders from the railway industry which produced the CTVRA, which has the crime threats and mitigations for the station recorded. There has since been a review of the proposed CCTV system in mid-2023.

Liaison has been undertaken with Devon and Cornwall Police's Designing Out Crime Officer, with regards the design of the footbridge and mitigations thereon to deter potential suicidal behaviour thereon, and this is specifically captured in the CTVRA.

Content that Network Rail has followed the requirements as laid down in the development framework around the development of new stations in that liaison has taken place with the BTP Designing Out Crime Unit

Devon County Council Ecologist

The ecological Information provided is sufficient and conditions / s106 are needed.

Protected Species

Bats: The application is supported by adequate assessment of impacts. Subject to conditions for the development to accord with the submitted Bat Mitigation Report and Lighting Assessment, and conditions for the submission of details on construction management (CEMP) and operational management (LEMP), the development will not unduly impact bats.

Dormice: Presence has been confirmed and habitat mitigation is proposed and is considered satisfactory. These works would be required to be delivered under licence from Natural England and consideration of whether a licence is likely to be issued by Natural England is necessary within the decision-making process. Therefore, the Authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and thus permit the proposal to lawfully proceed. The first two tests are essentially planning tests for the Authority to conclude. The third test I have concluded it to be met, that there will be no significant detrimental population impact (dormice) subject to the mitigation measures.

Reptiles: Slow worms present. It is proposed that reptile translocation pre commencement, protection fencing duration of the construction works, and the creation of log piles and hibernacula will be undertaken. The location of the reptile translocation receptor site does not appear to have been identified. This detail should be submitted to the LPA's approval.

Badgers: Active badger sett present and thus a badger licence is required. A proposed location for the artificial sett is indicated. We would advise that the new sett location should avoid the potential for badgers to undermine the railway line or roads. Natural England will need to consider whether an artificial sett is appropriate adjacent to a mainline railway as part of the licensing process. Measure to prevent animals, including badgers, being trapped in excavations should be included in a CEMP secured by condition.

Hedgehogs: Habitat clearance may impact injure, disturb or potentially kill. Measures to protect should be engrained within a CEMP and new habitat managed via a LEMP.

Cirl Buntings: Not preferred habitat. Note measures to avoid impact on nesting birds by avoiding vegetation clearance in the nesting season.

Aquatic habitats: Pollution prevention measures should be included in the CEMP.

Broadleaved woodland: Present both to the north and south of the Network Rail boundary. Enhanced as part of the Biodiversity Net Gain proposals. However, no details of this are in the submitted LEMP. A revised LEMP should be required by condition.

Local Wildlife Site: The proposal is within the Mainline Railway (Other Site of Wildlife Interest) which runs along the railway line. There would be approx. 0.26ha permanent and 0.32ha temporary loss of OSWI habitats. We advise that confirmation must be provided on the final mitigation plan that should be conditioned.

Biodiversity nett gain: There will be 1.84 habitat units delivered on site, including 0.09ha of other neutral grassland and mixed scrub. In addition, the Aller Brook within the site will be enhanced with planting of marginal vegetation to achieve a 39.35% increase in linear (watercourse) units. However, a net gain on-site for habitat units has not been achievable. The dormouse habitat creation has not been included in these figures as this is required under protected species legislation. Condition recommended to secure a Compensatory Habitat Scheme to address the issue.

Tree Officer (Swisco)

On the basis of the information unable to offer any support for the proposed development.

If on balance planning permission is granted for the development a series of recommendations are made which should be taken forward and secured by planning conditions.

Recommend that Torbay Council should undertake a CAVAT evaluation of the trees T38, T39 & T40 to establish their monetary worth and seek financial compensation for

their loss. Any funding secured through this process should be targeted for new tree planting in the ward to ensure there is no net loss in tree provision or amenity value to the local area.

A planning condition should be applied to secure a soft landscaping scheme incorporating specimen trees and amenity planting (mitigation). Further officer engagement with the applicant will be required.

A five-year maintenance and establishment specification will be required for all soft landscape works including tree and woodland scrub planting.

A planning condition to secure the pre-commencement installation, maintenance and monitoring of tree protective fencing (TPF) should be applied. Tree protection is shown on Plan Title: Fig 5 Arboricultural method Statement Drawing No: 21037-ARB-03. TPF must comply with Fig 2 of BS5837:2012 Trees in relation to design, demolition and construction – Recommendations. A record of site supervision and monitoring must be completed and submitted to the LPA by the project arboriculturist for submission at quarterly intervals for the duration of the development.

Torbay Council Community Protection Officer

Having reviewed the noise assessment report undertaken by ARUP Hochtief Ltd (Reference: 176768-HCT-WST-TOR-REP-TLP-010004 P02 | 28 July 2023 | I agree with their findings. There should be no significant impact on the nearest noise sensitive receptors in relation to this development, and as such I have no objections to this application being approved. The previous condition regarding contamination not previously identified should again be included.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle and Planning Policy
2. Design and Visual Impact
3. Drainage and Flood Risk
4. Ecology and Biodiversity
5. Amenity
6. Highway Safety and Movement
7. Trees
8. Low Carbon Development
9. Secure Design

1. Principle and Planning Policy

There is clear planning and economic policy support for the provision of a rail halt in this area.

In terms of Neighbourhood Planning the Torquay Neighbourhood Plan supports the principle of a rail station in this location where it is stated within “Highway and transport considerations for gateway area at Edginswell” (TNP page 44) that “the community

supports the proposed new rail station at Edginswell but without general parking as this is deemed unnecessary in this location due to close proximity to the Hospital, retail areas and Future Growth Area.”

Similarly, a railway station at Edginswell is promoted in the Torbay Local Plan and is cited as one of the “big-ticket” items promoted in the plan (Paragraph 2.3.1), in terms of a better connected and accessible Torbay. This is formalised in Policy SS6 (Strategic transport improvements) of the Local Plan which states that the Council will support improvements, which includes a new station at Edginswell (Policy SS6.4).

In terms of further considerations, it will also support the delivery and future vitality of a Future Growth Area (Policy SS2 and SDT3 and the adopted Masterplan), and also support key employment / services in the locality, principally the Torbay Hospital, Edginswell Business Park, the Willows District Centre, the redeveloping Devon Garden Machinery site, and the various commercial activities along the Newton Road, all in close proximity. The proposed rail halt will also complement the on-going delivery of road and junction improvements, and cycle and pedestrian links, in the area, including the South Devon Highway.

More widely the provision of a rail halt also strategically fits within the wider Devon Metro scheme that seeks the enhancement and integration of rail services through the southwest peninsula encompassing plans for new stations in and around Exeter and Torbay, which are targeted to deliver enhanced rail access for emerging growth areas of housing and employment.

Access to the station from the south will entail some development on the existing linear green space between the highway and rail land and this green space is designated as a Local Green Space under Policy TE2 of the Torquay Neighbourhood Plan. The policy rules out development other than in very special circumstances however the policy cites that a new railway station at Edginswell may be included as a very special circumstance. Considering this specific reference and as the extent of development within the green space is limited, it is deemed that there is no policy conflict with the Local Green Space designation.

It is also a material consideration that the Council granted consent in 2016 under the same Local Plan for a principally similar station within the same location, under planning reference P/2016/0078. Since this decision additional support for a station in this location has been added by the Neighbourhood Plan.

For the reasons stated above the proposal is considered acceptable in principle, as it is aligned with the aims and objectives of a number of strategic policy aims within the Torbay Local Plan, principally SS6.4 (Strategic transport improvements), SS2 (Future Growth Areas) and SDT3 (Torquay Gateway), and is supported within the Torquay Neighbourhood Plan.

2. Design and Visual Impact

The NPPF seeks to achieve well-designed spaces and cites that good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities (Section 12 of the NPPF).

The site sits in a designated Urban Landscape Protection Area (ULPA) as identified within the Torbay Local Plan (Riviera Way Corridor). The relevant policy (C5) requires that development should not undermine the value of the UPLA as an open or landscaped area and make a positive contribution to the urban environment and enhance the landscape character of the area. The UPLA policy makes direct reference to the expected provision of a rail halt within this area and states that the Council shall seek to minimise any impact, whilst recognising operational and safety requirements.

Also relevant is that the Torbay Landscape Character Assessment (2010) outlines the area (Kerswell Gardens / Scott's Meadow) as "Less Sensitive" in terms of its landscape character, principally because it is an area compromised substantially by development and roads, which provides context. There has been extensive development in the area since the character assessment was undertaken which has urbanised this area.

The station, footbridge and access ramps are to be provided within the scrub and wooded embankments which contain the rail line. A number of trees will be removed in order to provide the rail halt however mitigation is proposed in terms of replacement woodland planting to both the north and south embankments. There are also mitigation proposals for tree planting to soften the station entrance, and tree planting to soften and screen the development to 215 Newton Road. The impact on trees is considered similar to the 2016 consent which was considered acceptable, which is a material consideration.

The significant change of the current proposal to the 2016 consent is the removal of extensive ramped access to the footbridge from each platform and the introduction of lifts in place of the ramps. The amended access arrangements are considered to present a less impacting form of development within the UPLA, and the move concluded to be a positive one in terms of the developments overall visual impact.

In terms of materials there is a detailed palette of materials prepared as part of the application that is stated as being informed by the context and considering brand identity. The lifts towers are to be finished in copper red cladding, the footbridge and stairs to be painted a dark green, and platform fencing will be black and boundary fencing green. The palette of materials is considered adequately recessive in order to limit the developments visual impact on the area.

The proposal is supported by a Landscape and Visual Impact Assessment which concludes that the greatest impact will be short term through the construction phase and medium-term as proposed mitigation planting matures, but that in the long term, after 10 years once the landscape mitigation has established, the effects should reduce to non-significant levels and the proposed scheme be integrated within the character of the local landscape.

Considering the form of the development, including the positive influence of the removal of extensive high-level ramps that were included within the previously consented scheme, the soft tones of the materials palette, and the proposed landscaping mitigation, the proposal is considered acceptable on design, landscape

and visual impact grounds as it will sit comfortably in the context without fundamentally altering the landscape character and value of the wider Urban Landscape Protection Area.

The proposal is considered to respond to its context and sit comfortably with the aims and objectives of Policy C5 and Policy D1 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and is aligned with guidance contained within the NPPF in terms of well-designed spaces.

3. Drainage and Flood Risk

Most of the site and the primary elements of the development, the platforms, footbridge, and lifts, sit in an area with a low risk of flooding. However, the rail line sits adjacent to a watercourse and a linear zone with a high risk of flooding that follows the east-west line of the Newton Road and includes areas of the adjacent green space adjacent to the highway. This, together with the wider Critical Drainage Area designation of Torbay, presents a sensitive context in terms of drainage and flood risk.

National guidance contained within the NPPF cites that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, and that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere (Paragraph 159). It also guides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Paragraph 167). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Paragraph 169).

The application is supported by a Flood Risk Assessment and detailed drainage design for the management of the developments surface water run-off. This detail has been revised through the course of the application in response to comments from the Council's drainage engineer and the Environment Agency.

Firstly, in terms of directing development away from areas with the highest risk of flooding the submitted Flood Risk Assessment considers the sequential test. The assessment offers that the primary parts of the proposal, i.e. the platforms, footbridge and interconnecting stairs, are all in an area with lower flood risk, in accordance with the ambitions of the test. The assessment furthers that the proposals are also classified as 'essential infrastructure', and thus development should be considered acceptable within Flood Zone 3b, as long as the exceptions test is passed. In terms of the exceptions test this is applied to ensure that for developments for which there are no (lower risk) alternative sites available that; the sustainability benefits of the development to the community outweigh the flood risk; and that the development and its users will be safe for the lifetime of the development. The Flood Risk Assessment offers that, based on the small extent of development within Flood Zone 3, and the significant benefits the new station will provide as part of the wider improvements to the public transport network, it is considered that the scheme passes the test in terms of sustainability and community benefits. In terms of the tests requirement for development to be safe for its lifetime the Flood Risk Assessment details how the developments (and users) would be safe from flood events. This includes

consideration of the height of the functioning elements of the development, i.e. the platforms, footbridge and stairs, and also for the connected access to higher ground on Riveria Way at all times. The conclusions of the Flood Risk Assessment are considered sound and the sequential test is satisfied, and the exception test is satisfied subject to satisfactory comments from the Environment Agency regarding the development being safe for its lifetime. The recommendation to Members responds to this outstanding point.

In terms of the policy expectation that flood risk should not be increased to land or buildings adjacent as a result of the development the accompanying Flood Risk Assessment and drainage design identifies that surface water drainage from the railway station will be discharged to the adjacent Aller Brook at a controlled discharge rate equivalent to the Greenfield Run off rate. The Council's drainage engineer has assessed the information, including revised detail in response to initial points of concern, and raises no objections to the grant of consent on grounds of flood risk from the development.

In terms of further considerations, the proposal will require works in close proximity to a watercourse during the construction phase. The submitted Construction Environment Management Plan (CEMP) considers various potential risks to the water environment, but it has been highlighted by the Environment Agency and the County Ecologist that the CEMP does not specify exactly how pollution may be prevented. In accordance with comments from the County Ecologist it is recommended that a pre-commencement condition be used to secure acceptable protection/management measures in this instance.

Subject to satisfactory comments from the Environment Agency in regard to the safety of the development from the risks of flooding, the proposal is considered acceptable on flood risk and drainage grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan and guidance contained within the NPPF.

4. Ecology and Biodiversity

Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

In terms of the ecology context the majority of the site sits within a wider linear wildlife site, as the rail line is under a local designation as an Other Site of Wildlife Interest (OSWI).

The application is supported by an Ecological Impact Assessment, a Biodiversity Assessment, a Bat Mitigation Report, a Lighting Assessment, and mitigations plans. The detail has been reviewed by a Devon County Council ecologist acting as advisor for the Authority on ecology matters.

In terms of a change in context from the previous approved scheme in 2016 the detail and comments from the county ecologist acknowledge that the site is no longer within

the identified landscape connectivity zone associated with the South Hams SAC (Greater Horseshoe Bats) and hence impacts can be screened out.

In terms of bats the proposals present the creation of dark corridors behind the platforms in conjunction with lighting restrictions. There is understanding that the construction phase will have some impacts. The County Ecologist considers matters can be addressed through conditions, with the submission of a CEMP to include construction phase protections, a LEMP for ongoing management, and accordance with the submitted Bat Mitigation Report.

The ecological surveys confirm the presence of dormice and the development impacts dormice habitat, and has the potential for direct mortality, injury or disturbance. As a result works would need to be completed under a dormouse licence and prior to granting consent the Authority should consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed. The first two tests are considered met, as the station will present overriding public interest and there is no satisfactory alternative considering the constraints of the site and area. In terms of the 3rd test the County Ecologist considers the mitigation would satisfy the test of the Habitats Regulations and will provide continuity of suitable dormouse habitat around the site.

In terms of reptiles slow worms are present and it is proposed that reptile translocation surveys to be completed pre-construction and there is a proposal for habitat creation as well with the creation of log piles and hibernacula. Subject to the location of the reptile translocation receptor site being identified and approved impact on reptiles would be mitigated.

A badger sett is present and hence a badger licence is required for the development to proceed. A proposed location for the artificial sett is indicated but Natural England will need to consider whether an artificial sett is appropriate adjacent to a mainline railway as part of the licensing process. The derogation tests are met in accordance with the previous conclusions above.

In terms of other potential impacts, on hedgehogs and birds, impacts can be mitigated through planning conditions.

In terms of biodiversity there is a net loss on site notwithstanding proposed enhancements. In the context it is considered reasonable to condition further detail to ensure no net loss or a net gain in biodiversity, through a planning condition. Due to constraints within the site, it is proposed to attach a Compensatory Habitat Scheme condition to resolve a scheme of enhancements on Council land in the vicinity of the site to ensure no net loss of biodiversity.

In terms of potential impact upon aquatic habits the submitted ecology detail does not include pollution prevention measures for the construction phase, which is raised by

the Environment Agency and Devon County Council. The county ecologist advice is that the submitted CEMP is not approved, and detail is secured by condition through a revised document. This will address the concerns raised.

In-line with the conclusions above the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan, Policies TE4 and TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

5. Amenity

The NPPF guides that planning decisions should ensure developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Paragraph 130).

Firstly the impact upon local amenity has been considered and the key sensitivity is the potential impact upon the privacy of the occupiers of number 215 Newton Road, and more broadly for this property and those adjacent, potential noise impacts and lighting impacts.

In terms of overlooking towards number 215 Newton Road screening panels are proposed along the closest section of the southern platform to prevent undue overlooking. Retained and enhanced planting will also help soften views to the development from this property. The proposal is likely to have less impact on number 215 than the previous consented scheme due to the removal of the elevated ramps that were part of the previous design.

In terms of noise impacts the proposal is supported by a noise assessment and the development is to utilise a “dynamic ambient noise sensor system”, to adjust public announcements to a set appropriate minimum level above the ambient noise level. This is principally to reduce levels during quieter more sensitive hours. In addition, the public announcements system will be zoned to limit evening and nighttime announcements to the central area of the platforms only. The proposals have been assessed by the Council’s Community Protection Officer and are considered satisfactory, with no undue impact on adjacent occupiers through noise.

The station will be lit, so light pollution is a material consideration. However, given lighting will be limited to respond to ecological sensitivities requirements, it is not expected that light pollution will impact neighbours within an already urban and lit environment. The lighting detail will present dark corridors behind the platforms, the development will utilise low level lighting where possible, and lights will dim during out of hours.

For the reasons stated above the proposal is considered to sit comfortably with the aims and objectives of Policy DE3 (Development amenity) of the Torbay Local Plan, and guidance contained within the NPPF.

6. Highway Safety and Movement

The NPPF guides that development should ensure that *a)* appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given 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 (Paragraph 110). It also furthers (Paragraph 111) 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 would be severe.

As detailed within Section 1 of the Officer Assessment there is strong planning policy support for the provision of a railway station as the Torbay Local Plan proposes a new station at Edginswell (Policy SS6.4), and the Torquay Neighbourhood Plan cites a new station at Edginswell as a community aspiration, but without general parking which is deemed unnecessary in such a location (TNP Page 44). In terms of highway and movement considerations the key issues are the impact on the highway network, access considerations, and the suitability of the detailed design in terms of parking etc.

In terms of trip generation and the impact upon the wider highway network the Highway Authority considers that the introduction of the new station will provide an attractive alternative to single occupancy car trips and will likely result in a transfer of a proportion of existing car trips to rail. In turn this will potentially reduce congestion along the busy strategic corridors, thus potentially have a positive impact on the road system generally. The Highway Authority conclude that the rail halt will not result in a severe impact on the operation of the local highway network, a key consideration for development to meet.

In terms of access level pedestrian access is proposed from both the north, off Riviera Way, and the south off Newton Road. From the north it is proposed that an extension to the existing footpath network to the east is provided linking to an elevated footway that manages a severe drop in levels from Riviera Way, which in turn connects to the footbridge and lift and stair access facilities providing access to both platforms. From the South level pedestrian access over the green highway verge / public greenspace is proposed that connects to low level ramps up to the level of the southern platform. At this point there is stair and lift access to the interconnecting footbridge providing access to the northern platform or Riveira Way. The access proposals are considered acceptable and there are no concerns raised by the Highway Authority in terms of accessibility.

In terms of parking facilities the concept of the station is one which serves the local communities and local commercial and employments areas, and thus it does not include additional on-site car parking. The proposals do however include alterations to the highway to establish a drop off point and to establish disabled parking immediately adjacent to the facility along Newton Road. The concept of a 'car-free'

facility aligns with the 2016 consented scheme, which was initially proposed with parking but was amended to become 'car-free' following overriding public concern on the lack of need for parking and the loss of green space to provide it. The provision of drop-off facilities and disabled parking adjacent is supported and should be secured by planning condition.

In terms of the absence of on-street parking and the inclusion of drop off and disabled spaces the Highway Authority has requested that it is demonstrated that the removal of the existing pay and display spaces can be accommodated elsewhere within the local highway network, thereby not resulting in overspill car parking. Furthering that this should be evidenced through an On-Street Parking occupancy survey. Considering the context, that the adjacent residential parking needs are met on-plot within spacious plots, and thus current parking demand is inward to local employment or commercial uses, the minor loss of pay-and-display spaces to deliver disabled and drop-off facilities, is unlikely to present any demonstrable harm and hence further survey work is not necessary. Indeed, any minor impact is likely to be mitigated by the development, which provides a sustainable transport mode in place of car trips for daily inward migration to the area to employment uses or health or commercial services. In the round it is deemed reasonable to conclude that the proposal is likely to reduce parking demand locally.

It is noted that the Torquay Neighbourhood Forum support the proposal but seek the reintroduction of parking for 29 cars, notwithstanding acknowledgment that the Neighbourhood Plans community aspiration for the station is to exclude general parking as it was deemed unnecessary. The Plan does reference the desire for 'appropriate limited accessible parking' and the provision of disabled parking, a drop-off point, and the retention of the wider swathe of parking spaces unaltered in the vicinity, does deliver public parking options in support of the station. The proposal is hence deemed in full accordance with the Made Neighbourhood Plan despite objection from the Forum. It also reflects the form of development recently granted consent 2016, where parking on greenspace (pre Local Green Space designation) was strongly opposed within public representations.

Cycle parking facilities for 22 cycles is proposed from the south off the Newton Road within covered shelters. The level of cycle parking is considered adequate, and the position of the shelters is legible and benefits from natural surveillance from the adjacent highway and properties opposite, which will reduce the fear of crime and crime.

To conclude the station is considered to be an important element in improving sustainable travel in the area and is supported subject to certain conditions as highlighted. The development, in terms of highways and movement is considered consistent with the aims and objectives of Policies SDT3 (Torquay Gateway), SS3 (Presumption in favour of sustainable development), SS6 (Strategic transport improvements), TA1 (Transport and accessibility), TA2 (Development access) and TA3 (Parking standards) of the Torbay Local Plan.

Considering the points above, and having regard to guidance contained within the NPPF which states 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 would be severe, the proposal is supported on highway grounds.

7. Impact on Trees

The NPPF guides that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change and furthers that existing trees should be retained where possible, and that newly planted trees should be duly maintained (Paragraph 131).

Policy C4 of the Torbay Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. But furthers that where the loss of, or impact on trees, hedgerows or landscape features is considered acceptable as part of development, replacement and other mitigation measures will be required through planning condition or legal agreement. These measures should at least off-set any such harm, and preferably achieve landscape and biodiversity improvements, and make provision for on-going management. The policy also aligns with the NPPF in terms of seeking development proposals to retain and protect existing hedgerows, trees and natural landscape features wherever possible.

The embankments to the rail line are lined with trees and shrubs, as is the local greenspace within which the access cuts across, and the provision of a rail halt will inherently present some degree of arboricultural impact.

The application is supported by a tree report which documents the arboricultural context, including that none of the trees are protected under a tree preservation order or under Conservation Area designation. The report, in summary, identifies the tree removals that are outlined as necessary to facilitate the development, and outlines protection for those retained through the construction phase and ambitions for mitigation planting to address the tree removal.

The proposals have been considered by the Council's (Swisco) Tree Officer and it is concluded that the proposed development is not supported on arboricultural grounds, but a series of recommendations are offered if planning permission is granted.

Identified concerns include the loss of three lime trees within the Local Green Space, which are on council-owned land, the increased visibility generally following tree loss, the impact on root protection areas not adequately reflecting site constraints. Proposed mitigation measures should planning permission be granted include an evaluation of the three lime trees to establish their monetary worth and seek financial compensation for their loss and any funding secured through this process should be targeted for new tree planting in the ward to ensure there is no net loss in tree provision or amenity value to the local area. A planning condition to secure a soft landscaping scheme incorporating specimen trees and amenity planting. A five year maintenance and establishment specification will be required for all soft landscape works including tree and woodland scrub planting. A planning condition to secure the pre-commencement installation, maintenance and monitoring of tree protective fencing (TPF) should be applied. And a record of site supervision and monitoring should be

completed and submitted to the LPA by the project arboriculturist for submission at quarterly intervals for the duration of the development.

In terms of context the previous consent for a rail halt granted in 2016 had similar impacts on trees and was supported in terms of impact on trees subject to planning condition to secure an appropriate landscape scheme (to address tree losses) together with protection measures and maintenance. It is a material consideration that the conclusions, recommendations and the decision of the Authority was made under a similar policy context to which stands today, in terms of being considered under the same Local Plan, where the now made Torquay Neighbourhood Plan is principally silent on matters of trees and development.

Considering the planning history of the site the proposal is considered acceptable in terms of its impact on trees subject to suitable conditions to secure adequate mitigation planting through a detailed landscape scheme, suitable protection measures for retained trees, and suitable maintenance for new trees. As the three lime trees to be removed are on Council owned land and for part of a wider Council owned greenspace it is considered suitable to secure replacement through a Grampian condition rather than the suggested financial obligation.

In-line with the conclusions above the proposal is considered acceptable when considering the aims and objectives of Policy C4 of the Torbay Local Plan and advice contained within the NPPF.

8. Low Carbon Development

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources.

A Low Carbon Energy Statement has been submitted in support of the development seeking to demonstrate compliance with the low carbon energy requirements of the NPPF and the Local Plan.

The submitted report cites that the proposed development aspires to achieve high levels of sustainability. It notes that there is no heating provided as part of the project and operational energy of the proposed station is reduced by presence detection and dimmed lighting, reduced camera requirements, and energy efficient lifts. These elements can be and should be secured by planning condition.

In terms of travel and sustainability the proposed station is near housing and employment draws and will provide opportunities for sustainable public travel. There are regular bus services in the area and cycle parking is proposed. The development will integrate with other sustainable modes of local travel and enhance the level of accessibility for non-car modes of travel. This presents development that aligns with the importance and benefits of promoting sustainable transport for all new development.

The development is considered to accord with Policies SS14 and ES1 of the Torbay Local Plan the NPPF.

9. Secure Design

Policy TH2 of the Torquay Neighbourhood Plan states that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion. Similarly, Policies SS11 and DE1 of the Torbay Local Plan includes reference that schemes should help prevent and/or design out opportunities for crime and disorder.

The proposal includes CCTV and lighting to discourage antisocial behaviour and platforms have been provided with measures to deter trespassing.

A detailed design document outlining the process of consideration and measures implemented in the design to reduce crime or the fear of crime has recently been submitted in support of the application. Previous consultation with the Police has drawn out that they have independently been in discussion with the British Transport Police to provide them with local information, which suggests consideration and consultation has been undertaken. British Transport Police has confirmed that they are context that Network Rail has followed the requirements as laid down in discussions on the development framework with the BTP Designing Out Crime Unit.

It is recommended that the design document regarding safety is secured by a planning condition. The development is considered suitable for approval in terms of security of design, in accordance with Policies SS11 and DE1 of the Torbay Local Plan.

Sustainability

The NPPF is clear that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 7) and that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)(Paragraph 8). The three overarching objectives are:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Each objective is discussed in turn below.

The Economic Role

The provision of a rail halt in the location proposed seems strategically sound in terms of supporting the economy and economic growth. The station will improve access and travel opportunities to major employment and services in the area and will provide improved access for occupants within the nearby residential areas to employment and services within other parts of Torbay via the rail network. As an element that would strengthen the public transport system the development may contribute to reducing congestion within an entrance point to Torquay and Torbay, which may itself offer some positive influence on economic strength in terms of the efficiency impact of congestion. All matters considered there are no adverse economic impacts that would arise from this development and as such in terms of the economic element of sustainable development, the balance is in favour of the development.

The Social Role

The principle social benefit of the proposed development is the improvement of sustainable travel modes for the local community and for those migrating inward for local employment, local services or for social reasons. The social impacts of the development weigh in favour of the development presenting more choice for travel, reducing car dependency and improving public transport for non-car owners.

The Environmental role

With respect to the environmental role of sustainable development the development will enhance the public rail network and improve inward and outward access by rail. A major investment within the local rail network, within what appears a strategic mixed use outer suburb that has both inward and outward travel demands, has the potential to reduce car dependency through enhanced access to the rail network. In this regard the development will contribute to the ambition of moving to a low carbon economy. Ecological impacts are to be limited through proposed mitigation, with enhancements to habitats, protection of identified species and ensuring no net loss of biodiversity. Impact on protected species and their habitats will be countered by enhancement of their habitats within the site. It is concluded that the environmental impacts of the development weigh positively within the planning balance when considering the ecological mitigation and the potential positive impact on reduced car use.

Sustainability Conclusion

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

Local Finance Considerations

S106:

N/A.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

The application site is no longer within a strategic corridor associated with the South Hams SAC and is not within the landscape connectivity zone associated with the South Hams SAC. A Habitat Regulations Assessment / Appropriate Assessment is not required.

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

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

Conclusions and Reasons for Decision

The principle of providing a rail halt in this location is considered acceptable, as the site is identified within the current Torbay Local Plan and Torquay Neighbourhood Plan, helping to deliver sustainable growth.

The development will enhance sustainable transport options into and out of a mixed-use outer suburb of Torquay, reducing reliance on car-based trips and enhancing travel options for non-car households. Highway and movement outcomes are considered positive.

The visual impact of the station upon the Urban Landscape Protection Area is acceptable subject a robust detailed landscape plan secured by planning condition.

Satisfactory arboricultural mitigation can be achieved by planning condition to mitigate for the loss of the three lime trees off Newton Road and wider tree loss through a planning condition.

The proposal is acceptable on flood risk and drainage grounds subject to satisfactory conclusions that the proposal is safe from flooding and subject to securing the proposed drainage scheme for managing surface water from the development.

The impact upon amenity will be limited with planning conditions to secure screening towards an adjacent property and to secure the advanced Public Address System detailed.

All matters considered the addition of a rail facility in this location is deemed sustainable development that will offer positive economic, social and environmental outcomes.

Officer Recommendation

Approval: Subject to;

The receipt of satisfactory comments from the Environment Agency regarding the developments flood resilience, delegated to the Divisional Director - Planning, Housing & Climate Emergency.

The conditions outlined, with final wording delegated to the Divisional Director - Planning, Housing & Climate Emergency.

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director - Planning, Housing & Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

01. Highway Agreement

All works to the highway shall not commence until any necessary highway agreements have been secured with the Local Highway Authority to deliver the access works and ancillary works to the highway detailed on the plans hereby approved. The agreed works, including any necessary protection barriers along the southern side of Riviera Way, and drop off and disabled parking on Newton Road, shall be delivered in accordance with the plans hereby approved and any necessary highway agreement, and shall be completed prior to the first use of the development.

Reason: To ensure adequate access to the development from Riviera Way and Newton Road, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030 and the NPPF. This need to be a pre-commencement condition as it relates to works on highway land.

02. Construction Management Plan

Development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The 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) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction practices, including working hours, to minimise noise nuisance to neighbours.

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

03. Revised CEMP

Notwithstanding submitted detail prior to the commencement of development a Construction Environmental Management Plan (CEMP: Biodiversity), which shall have been prepared in accordance with specifications in BS42020; clause 10.2, shall have been submitted and approved in writing by the Local Planning Authority, and shall include the following.

- a) Risk assessment of potentially damaging construction activities, to include potential risks to the water environment and how pollution may be prevented.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), to include potential risks to the water environment and how pollution may be prevented.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the area and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5

of the Torquay Neighbourhood Plan and NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

04. Revised LEMP

Notwithstanding submitted detail prior to the commencement of development (including demolition and ground works) or vegetation clearance works a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Reason: In the interests of the amenities of the area and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

05. Landscape Scheme

Development shall not commence until a detailed landscaping scheme, which shall include details of mitigation planting for the loss of lime trees T38, T39 and T40 within the adjacent public greenspace adjacent to the site between the Newton Road and the rail land, has been submitted to and approved in writing by the Local Planning Authority, which shall include details of planting and maintenance.

Reason: To protect the visual amenities of the area and the verdant characteristics of the Urban Landscape Protection Area and Local Green Space, in accordance with Policies C4 and C5 of the Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan. These details are required pre-commencement as specified to ensure that the Urban Landscape Protection Area is not harmed by building operations or vegetation removal.

06. Landscape Provision and Maintenance

All planting, seeding or turfing comprised in the approved details pursuant to Condition 05 shall be carried out in the first planting and seeding season following the first use of the development, and the development shall not be brought into use until off-site landscaping within the adjacent public greenspace has been provided.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies C4, C5 and DE1 of the Torbay Local Plan and guidance contained in the NPPF.

07. Tree Protection

Prior to the commencement of development all tree protection measures, as shown on Plan Title: Figure 5 Arboricultural method Statement Drawing No: 21037-ARB-03, which shall accord with Figure 2 of BS5837:2012 'Trees in relation to design, demolition and construction', shall be implemented in full and shall remain in place throughout the construction phase.

Reason: To secure an appropriate form of development in accordance with Policies C4, C5 and DE1 of the Torbay Local Plan and guidance contained in the NPPF.

08. Arboricultural Method Statement

Prior to the commencement of the development hereby approved an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority all, which shall include the following:

- a) Details of the Project Arboriculturist;
- b) Arboricultural watching / monitoring brief;
- c) Tree protection site check frequency, record keeping and reporting frequency to the LPA;
- d) Escalation process (breach of planning control / damage to retained trees) with LPA;
- e) Completion checks and final reporting.

The development shall proceed in full accordance with the approved detail.

Reason: To secure an appropriate form of development in accordance with Policies C4, C5 and DE1 of the Torbay Local Plan and guidance contained in the NPPF.

09. Surface Water Management

Prior to the first use of the development the submitted and approved surface water management system shall be implemented in full and be fully operational to serve the development. The approved surface water management system shall be maintained and operational at all times during the lifetime of the development.

Reason: In order to ensure an effective managed surface water drainage system that will not increase the risk of flooding to land or buildings adjacent, to accord with the

requirement of Policies ER1 and ER2 of the Torbay Local Plan in respect of sustainable drainage and standing Critical Drainage Area advice (Environment Agency: May 2015).

10. Unknown Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect controlled waters from any land contamination not identified during the site investigations, in accordance with Policy ER3 of the Torbay Local Plan.

11. Public Address System

The public address system shall at all times accord with the submitted and approved Arup Noise Assessment Report (Document ref 176768-HCT-WST-TOR-REP-TLP-010004: Dated 28.07.23).

Reason: To protect the local amenity by appropriately managing noise pollution, in accordance with Policy DE3 of the Torbay Local Plan.

12. Lighting

External Lighting shall at all times accord with the submitted and approved Arup Lighting Assessment (Reference: 176768-HCT-WST-TOR-REP-TLP-010001: Dated 07.08.2023).

Reason: To protect the local amenity and ecology by appropriately managing light pollution, in accordance with Policy DE3, C5 and NC1 of the Torbay Local Plan.

13. Sustainable Travel

Prior to the first public use of the station agreement on the parameters for advertising pedestrian links, bus routes and timetables, shall be submitted and approved in writing by the Local Planning Authority.

The approved detail to advertise green travel choices shall be implemented in conjunction with the opening of the station for public use.

Reason: To promote sustainable modes of travel in accordance with Policies TA1, TA2 and TA3 of the Torbay Local Plan 2012-2030.

14. Cycle Parking

Prior to the first public use of the development the approved cycle parking facilities shall be implemented in full and made available for public use. The covered cycle parking facilities shall be maintained in full at all times thereafter for the purposes of cycle parking.

Reason: To promote sustainable modes of travel in accordance with Policies TA1, TA2 and TA3 of the Torbay Local Plan.

15. Privacy Screening

Prior to the first public use of the development the privacy screen on the southern platform, as indicated on the approved plans, shall be implemented in full and shall be maintained as such at all times thereafter.

Reason: To protect the amenity of neighbouring occupiers of 215 Newton Road, in accordance with the Policy DE3 of the Torbay Local Plan 2012-2030.

16. Bat Mitigation

Development shall be carried out in accordance with the actions set out in the submitted Bat Mitigation Report and the Lighting Assessment Ecus August 2023.

Reason: In the interests of ecology in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the NPPF.

17. Nesting Season

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

Reason: In the interests of ecology in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the NPPF.

18. Energy / Low Carbon Development

The development shall accord with the submitted and approved Low Carbon Energy Statement (Arup: Reference 176768-HCT-WST-TOR-REP-TLP-010006 P01: Dated 6 June 2023).

Reason: In the interests of sustainable development and in accordance with Policies SS14 and ES1 of the Torbay Local Plan and the NPPF.

19. Materials

The development shall accord with the submitted and approved materials as detailed within Arup Palette of Materials (Reference: 176768-HCT-WST-TOR-REP-TLP-010009: Dated 09.08.23). The materials shall remain as approved through the life of the development without variation.

Reason: In the interests of visual amenity in accordance with Policies SS11, DE1 and C5 of the Torbay Local Plan, TH8 of the Torquay Neighbourhood Plan and the NPPF.

20. Secure Design

The development shall accord with the submitted and approved 'Edginswell Station Crime Reduction Threat, Vulnerability & Risk Assessment (TVRA)' (Reference: 176768-HCT-WST-TOR-REP-EMF-010001- A01: Dated December 2022).

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

21. Compensatory Habitat Scheme

Within 12 months of the commencement of development, which shall include operations consisting of site clearance (including clearance of vegetation), a Compensatory Habitat Scheme appropriate to compensate for a Biodiversity Impact Assessment score of 5.42 Biodiversity Units and 0.09 watercourse units shall have been submitted to and approved in writing by the Local Planning Authority. The compensatory habitat secured by the scheme shall be functional within 12 months of the approval of the scheme and be managed for a minimum of 30 years.

In the event of the failure to deliver an approved compensatory habitat scheme the application site shall be managed positively to achieve a habitat value no less than its current value, with a proposed scheme and delivery proposals submitted to and approved in writing by the Local Planning Authority within 12 months of the commencement of development. The approved scheme shall then be delivered within the first available planting season following the developments first use and shall be managed for a minimum of 30 years.

Reason: To secure an acceptable form of development in accordance with Policies SS8, SS9 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Development Plan Relevant Policies

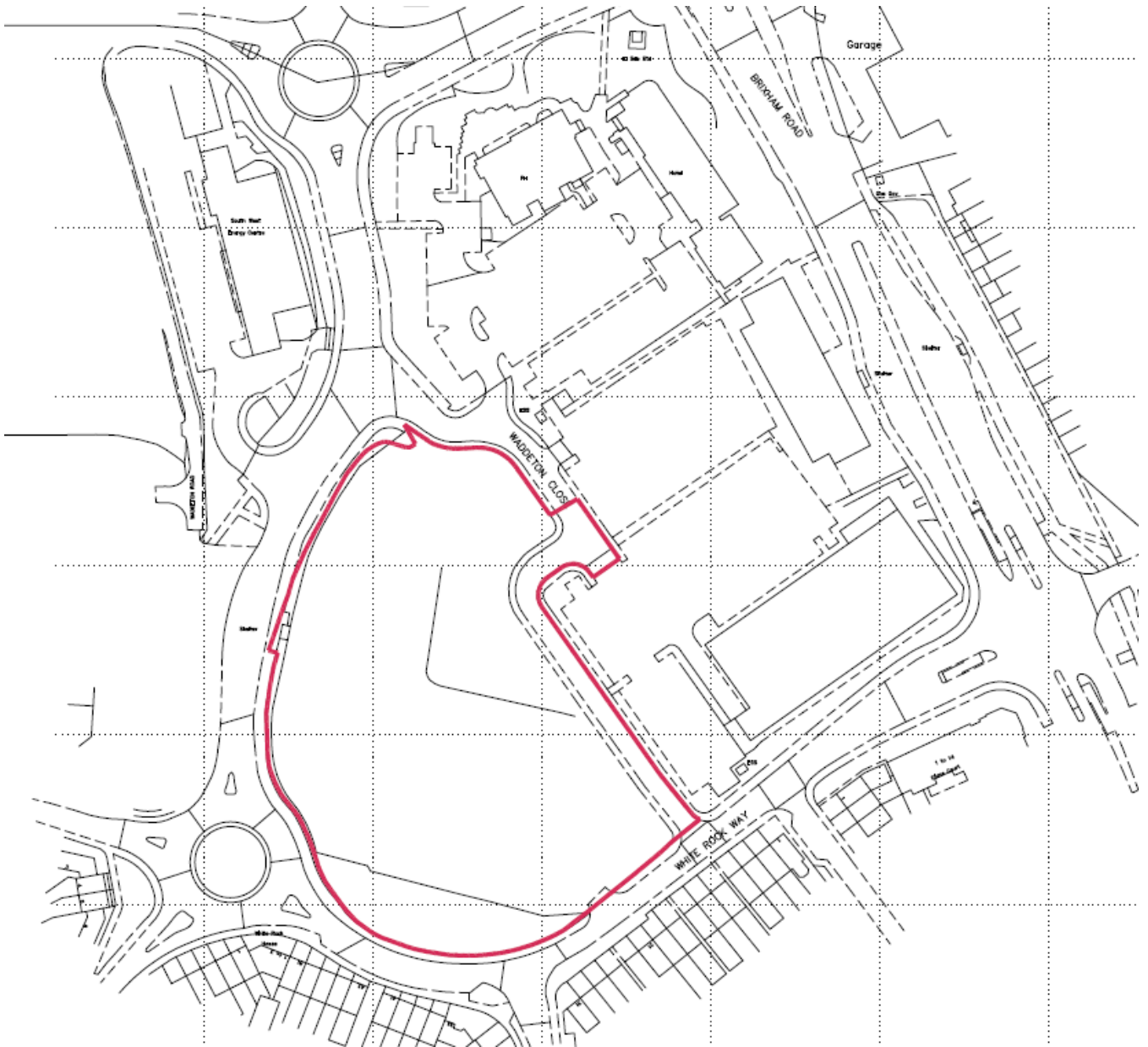
SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS6 - Strategic transport improvements
SS8 - Natural Environment
SS9 – Green infrastructure
SS11 - Sustainable Communities Strategy
SDT3 – Torquay Gateway
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
C5 - Urban landscape protection areas
DE1 - Design
DE3 - Development Amenity
DE4 – Noise
ER1 - Flood Risk
ER2 - Water Management
ER3 - Contamination
W1 - Waste management facilities

TS1 – Sustainable Development
TS3 – Community led planning
TS4 – Support for Brownfield and Greenfield development
TH2 – Designing out crime
TH3 – Future Growth Area priorities
TH6 - Gateway sustainable community planning
TE2 - Local Green Spaces
TE4 - Green Corridors

TE5 - Protected species habitats and biodiversity

Application Address	Site	Waddeton Approach, Waddeton Close, Paignton, TQ4 7RZ
Proposal		Outline application for residential development of up to 60 dwellings, commercial space and associated works. Details of access to be determined with all other matters reserved.
Application Number		P/2023/0621
Applicant		Abacus Projects Ltd and Deeley Freed Estates Ltd
Agent		Cushman and Wakefield
Date Application Valid		25.07.2023
Decision Due Date		24.10.2023
Extension of Time Date		30.11.2023
Recommendation		<p>Approval Subject To;</p> <p>The completion of a Section 106 Legal Agreement to secure the heads of terms as outlined, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>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.</p>
Reason for Referral to Planning Committee		Major Development.
Planning Case Officer		June Pagdin

Location Plan
See next page



Site Details

The application site is an island site in the White Rock development area on the western urban edge of Paignton. It covers approximately 1.2HA and is bounded by Waddeton Road to the west, White Rock Road to the south, and Waddeton Close to the East/North. The site is to the west of Brixham Road (A3022) and can be accessed from the junctions with Long Road and Goodrington Road.

The application site includes the part of Waddeton Close that provides access to the car parks at the rear of the Epic Centre and Lidl Supermarket from White Rock Road (and which is currently a private road).

There is currently no other vehicle or pedestrian access onto the developable area of the application site. The area has been fenced off. The site contains some mature trees, notably three pine trees, hedgerows and scrub vegetation on the eastern side. A stone wall runs along the western side. A large attenuation tank for the drainage for the development area sits beneath the western part of the site. This part of the site is flat and grassed.

The Torbay Local Plan identifies the application site as part of the wider White Rock Site (SDP3.5) which is allocated for housing and employment uses. The White Rock Development is the subject of Policy PNP21 in the Paignton Neighbourhood Plan. The White Rock Area has planning permission (outline permission P/2011/0197 MOA) for 350 dwellings and commercial space. The residential elements are being built out and commercial spaces on Brixham Road and in the western bowl area have been constructed.

The current application site was identified as part of the Local Centre for mixed uses: part commercial, part housing and part open space (Approved Access and Design Statement, 14912 V2 under outline permission P/2011/0197). The approved phasing plan to condition 3 of the outline permission indicated that the site was part of the local centre with phasing to be agreed (40200 LP STR 004 Rev A, CN/2013 0076). However, it was not the subject of any Reserved Matters (RM) application and the outline permission has now expired with regards to any further RM applications. Other plots in the Local Centre have been built out under subsequent full planning permissions (e.g. Epic Centre, Lidl).

The description of development for White Rock (P/2011/0197) included “approximately 15Ha of open space”. The s106 agreement for the White Rock Area outline planning permission required 15Ha of public open space to be provided within the overall site area. The applicants have prepared a calculation of the public open space areas provided in the White Rock development, which indicates that 14.58Ha have been provided in areas of varying character.

The site is in a habitat zone for Greater Horseshoe Bats, Cirl Buntings and Greater Crested Newt Consultation Zone. It is in Flood Zone 1 of Torbay’s Critical Drainage Area.

The site presents an opportunity to provide public open space in an attractive and useable form and to provide important pedestrian connections between the existing housing and the town centre functions of the wider development site and the public transport connections on Brixham Road.

The application site has been included in the HELAA update exercise 2022/23 (Reference Number 21P053) to provide an estimated 121 units (55 x C3 apartments and a care home of 66 C2 units). The summary assessment notes the potential to provide 60 dwellings (or pro-rata equivalents).

Description of Development

This application seeks outline planning permission for up to 60 dwellings and details of site access with all other matters (layout, scale, appearance and landscaping) reserved.

The indicative details submitted with the application for 60 dwellings seeks to demonstrate that the level of development proposed could be appropriately achieved on the site. This includes:

- Masterplan (2482-P1 - Illustrative Site) – shows a potential residential layout in two clusters one at the north end and one at the south end with open space (3,417sqm) through the centre of the site. The key summarises the development as
 - 60 dwellings: 40% (24) houses 60% (36) flats including 18 affordable housing units (30%),
 - A small amount of commercial space (approximately 70sqm),
 - Off-road parking layouts and garden divisions are indicated and
 - 3.2Ha of public open space with a LAP and a LEAP.
- Site Permeability (2482-P4 – Illustrative plan) – shows vehicle access at two points from Waddeton Close and pedestrian access points from the east side (Waddeton Close) and from the west side (Waddeton Road).

- Transport Statement and Travel Plan (amended) – shows vehicle access from two points on Waddeton Close; one to the south one to the north. A Road Safety Audit was undertaken and a pedestrian zebra crossing is recommended across Waddeton Close to connect to the footpath across the open space. The report assess viability, accident data, trip generation and links to non-car transport modes.
- Technical Note – (P20230621 Response to Comments, Sept 2023) – indicates Waddeton Close would be offered for adoption, demonstrates swept paths for refuse vehicles, proposals for bus shelter to be adopted, adjustment of pedestrian crossing over Waddeton Close, possible repositioning of bus stop on White Rock Way.
- Travel Plan – (P2023-0621-3-v3.0) updated to demonstrate - meeting SMART targets for non-car access to site for 30% of users.
- Access and Design Statement – (2482 DAS D)
- CIL Liability forms (P2023-0621-5 and 6)

Other documents submitted are:

- Accommodation Plan (2482 P2 - Illustrative) – sets out accommodation schedule 1, 2 and 3 bedroom units in 2,3 and 4 storey buildings
- Affordable Housing and Planning Statement (2224VS00)
- Tenure Plan (2482 P3 – Illustrative) tenure plan for market and affordable units
- Public Open Space (2482 P5 - Illustrative) – retain stonewall and some trees provide public open space and footpaths through the centre of the site and a LAP and a LEAP
- Parking (2482-P6 Illustrative Parking)
- Refuse Strategy (2482-P7 - Illustrative)
- Site Sections (2482-P8 - Illustrative) – three storey terraces at southern end and four storey flats at north end.
- Perspectives (P20230621 P9 and P10 - Illustrative)
- Energy Statement (P2023-0621-4)
- Acoustic Report (10032-SL B Noise Assessment)
- Lighting Statement (27111-HYD-.RP-E-0001 (Lighting Statement)
- FRA and Drainage Scheme (EO5706-0001_DS-P3, 31.08.23)
- Land Contamination Report (E05706.1-CLK..RP-GT-0001 P03 Site Investigation)
- Tree Survey and Report (EV-3880-TCP (Constraints Plan)
- Arboricultural Impact Assessment (EV-3880-AIA Impact Assessment)
- Tree Protection Plan (EV-3880-TPP Protection Plan)
- Proposed Landscape (920-01C Illustrative Planting Plan 1) (920-02C -Specification)
- Ecological Assessment (NPA 10874 124 P02) and BNG Strategy
- BNG Baseline Metric (P2023-0621 -7 Biodiversity Metric Tool)

Pre-Application Enquiry

Informal pre-application discussions on this site were undertaken as part of a PPA for the White Rock Area. The site is being considered under the HELAA update 2022/23.

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Paignton Neighbourhood Plan (PNP)

Material Considerations

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

Relevant Planning History

White Rock

P/2011/0197 (Outline) : Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m²A1/A3 use and student accommodation, approximately 15 hectares of open space, a sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application). Approved with s106 Legal Agreement 29.04.2013.

Lime Kiln Close Reserved Matters

MRM – P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197. Approved 16.May.2014.

NMA – P/2014/0852 Non material amendment to P/2014/0071 - Changes to materials

Linden Homes Reserved Matters

MRM - P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development. Approved 17.04.2014.

NMA – P/2014/0853 Non material amendment to P/2013/1229- Changes to materials to reflect materials schedule and addition of a conservatory on plot 314.

Sports Playing Area

P/2016/0188: Approval of reserved matters to P/2011/0197. Appearance, layout and scale in relation to a sports pavilion, and associated development including a sports playing pitch, multi-use games area and car park. Approved 13.04.2017. Subject to a Deed of Variation.

Local Centre

P/2017/0685: Development of Innovation Centre (Use Class B1a and B1b) with associated parking and landscaping. Approved with Legal Agreement 06.04.2018.

P/2017/1019. Formation of supermarket inc. associated works. Approved with legal agreement 24.04.2018.

Summary of Representations

Neighbour letters were sent out on 31.07.2023. Site notices and a newspaper advertisement were displayed on 02. 08.2023.

Five objections have been received. A summary of responses is set out below.

Reasons for objection relevant to this outline application with details of access:

- Adverse impact on quality of life and well-being of residents
- Increase in noise, dust and mud pollution during construction and afterward – nuisance and health threat and need to clean roads

- Increased traffic noise and fumes to already busy commercial area next to housing
- Mixed uses are not harmonious together
- Parking is a severe issue in this area – inadequate for existing housing - most households have two cars.
- Housing schemes on Inglewood and Nortel – question the need for more housing
- Schools, doctors and dentists are oversubscribed locally
- Area needs more infrastructure and services, play parks and community spaces not more houses
- A café/restaurant (Class Eb) or day nursery/doctor/dentist (Class Ee, Ef) would be best use
- Public Open Space was originally proposed and is needed for local residents
- More housing will put more pressure on existing public open space
- Should plant more trees
- There are no green spaces for breaks (working day)

Reasons for objection related to other matters:

- College Sport Facilities added to insufficient parking for existing residents causes parking problems and blocked driveways
- Construction of White Rock leaves mud stains on properties

Summary of Consultation Responses

Broadsands, Churston and Galampton Neighbourhood Forum

No response received.

Brixham Town Council

Insufficient public open space provision and loss of trees without adequate compensatory planting.

South Hams District Council

No response.

Torbay and South Devon NHS Foundation Trust 23.08.2023

The proposed development would potentially create 60 dwellings with an estimated population of 230 new residents. The Devon Integrated Care Board (GPs) in this area is operating at full capacity and cannot absorb the resulting increase in patients. A long-term impact on the Trust's ability to provide safe, accessible and sustainable service delivery to current and new residents. Contributions are sought to mitigate this direct impact and compliant with CIL Regulation 122 and Appendix G the amount sought for 60 dwellings is £37,258 (£621 per dwelling) to be secured through a s106 agreement.

Devon County Council Historic Environment

No response.

Torbay Council Housing Strategy

Requested for development of over 30 units: on greenfield sites - 30% of units to be affordable and provided on-site. If brownfield then affordable proportion is 20%.

Torbay Council Affordable Housing Strategy and Enabling Officer 28.08.2023

No objections to the application from an affordable housing perspective. The applicant is proposing 30% (18 units) affordable housing provision which is compliant with Policy H2. We would look forward to working with the applicant on the detail of the affordable housing scheme.

Community Safety 29.03.2023

No response.

Ecology Advisor (Devon County Council)

06.10.2023:

HRA: The development is unlikely to impact Greater Horseshoe Bats due to existing levels of lighting in the area. No impacts on SAC or SSSI's subject to conditions to create habitats and limit additional lighting.

Further information required prior to determination –.

- cirl bunting and reptile surveys are over 18 months in age. More up-to-date ones may be required,
- BNG metric needs to correctly justify off-site measures Further information required on the area measurements of habitats lost (semi-improved grassland, ephemeral short perennials and introduced shrubs) and created,
- the maintenance plan for the proposed habitats especially as many border private gardens and wildflower meadow appears to be privately owned,
- EIA report states 40 trees to be planted but only 20 are native species. 8 trees in planters not recommended,
- Justification required for intrusion of 30% into RPA of retained Pine tree G5.5 and
- Justification for Planting Plan proposal of “killing off existing vegetation with herbicides” - likely to adversely impact local wildlife/biodiversity.

Recommends conditions securing a CEMP at RM stage, a LEMP at RM Stage (with tree protection fencing, habitat creation, species specification and management, no external lighting without permission (and in accordance with submitted EIA and strategy), Bat boxes in development (mitigate for loss of potential bat roosts - design to be secured at RM stage), any licence necessary from Natural England, vegetation clearance outside of bird nesting season and repeat badger survey before any site works commence. .

BNG: A baseline metric was submitted for the site and for off-site mitigation area. Further information required as set out above. Clarify key to Image 1 in Env Impact Report and ownership of off-site land. Monitoring will be required via condition/s106.

31.10.2023: Questions satisfactorily answered. Content that proposal would provide a net gain in biodiversity and that tree G5.5 would be protected. No objection subject to previously requested conditions and LEMP and CEMP conditions. The LEMP to be for 30years and include the off-site BNG land.

Natural England

09.08.2023: A Habitats Regulation Assessment is required.

The development is within the Greater Horseshoe Bat Sustenance Zone and Landscape Connectivity Zone of the South Hams Special Area of Conservation (SAC). Your HRA should assess whether the proposal could result in impacts on greater horseshoe bat roosts or foraging and commuting routes, for example by removing lengths of hedgerow or from artificial lighting. We advise that you follow the detailed guidance in the *South Hams SAC – Greater horseshoe bat Habitats Regulations Assessment Guidance* (October 2019).

Impacts should be avoided wherever possible, for example by retention of hedgerows and through restricting lighting. The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8. Bats and 1. Artificial Lighting. They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats. Where impacts on bat habitat cannot be avoided, a detailed HRA may be required and

surveys may be necessary, as set out in the guidance. Any mitigation measures deemed necessary must be secured through planning conditions or obligations. We have not assessed the application for impacts on other protected species.

Arboriculture and Green Infrastructure Manager (Swisco)

21.08.2023: Open spaces contribution.

Without prejudice to CIL liability, we would be looking for open spaces contributions and proportionately reduced to take count of any on-site provision, in accordance with the Adopted SPD.

SWISCo would be seeking to take on the management of the open space provision for a period of 25 years (grass cutting/non-residential bin emptying, playground inspection, bench repair and non-highway path repairs).

11.09.2023: Arboriculture

No objection in principle but additional/revised arboricultural information is required. The site contains broad leaved trees and hedgerows. A tree survey needs to be carried out in accordance with BS and a Tree Constraints Plan is required. Tree Protection Plan is required to clearly reference trees being retained and methods of their protection. Tree Planting along western boundary requires strengthening (Pines, Maples and Walnuts). Proposed *Prunus avium* species are short lived - replace with larger-canopied, longer-lived species (Field Maple, *Prunus Kansan*, Whitebeam or Callery Pear). Additional weed control (much) required to aid tree and hedge establishment.

21.09.2023: Arboriculture

The AIA and TPP are satisfactory. No objection subject to planning conditions securing TPP prior to commencement, an Arb Method Statement for ground protection systems, identification of utility connections on route of footway and details of installation methodology, a further method statement for monitoring of tree protection and watching brief for specialist surface installation.

Drainage Engineer (Torbay Development Agency):

21.08.2023: The application is accompanied by an FRA and drainage strategy. The strategy complies with the original White Rock Master Plan Drainage Strategy. The scheme includes surface water drainage modelling. Further information is required on pipe gradients, pipe diameter and connections to impermeable areas. This information is required prior to determination.

19.10.2023:

I can confirm that providing the surface water drainage is constructed in accordance with the submitted surface water drainage layout drawing and the hydraulic modelling which are included within the latest site-specific Flood Risk Assessment, I have no objections on drainage grounds to planning permission being granted for this development.

Waste and Recycling Officer (Swisco)

22.08.2023 Roads not indicated as adopted. SWISCo will not drive onto unadopted highways to complete collections unless they are built to adoptable standards and formal indemnity is provided. Need swept paths for vehicles collecting individual containers and communal containers. Please use the correct dimensions for swept paths.

Collection points are not indicated – these need to be on the highway for individual collection and from the store for communal collections via adopted/adoptable surfaces.

Commercial units need to make their own arrangements for recycling and waste collection. Request waste management contributions for this development: £90 per dwelling for provision of bins and £72 per dwelling towards collection service vehicles. As per the table in SPD.

Follow-up: see Highways comments below.

Highway Authority (Swisco) and Transport Planning

23.08.2023:

Based upon the information submitted at the time of writing, the Highway Authority considers the PICS data, trip generation and visibility splays provide in the Transport Statement to be acceptable. The development would not result in severe impact on the operation or safety of the local highway network.

The indicative layout demonstrates provision of 1 car parking space per flat and two per house. EVCPs at 20% for flats and one per house is to be provided. The cycle store provision is indicated. These are acceptable.

A site layout road adoption plan will be required to accord with the Torbay Council Highway Design Guide Standards. If not adopted, a Road Management Plan will need to be provided together with confirmation of private refuse collection.

Servicing for commercial unit will need to be addressed please confirm type of development. Pedestrian crossing needs to be away from site vehicle access on Waddeton Close.

Recommends a condition securing construction of roads to adoptable standards. Necessary s106 or s278 works will be sought to make the scheme acceptable. S106 Sustainable Transport contributions will be sought without prejudice to CIL liability. Travel Plan needs to include SMART targets of 30% of users using sustainable modes (Policy TA2 of TLP).

02.11.2023:

Resolution of road adoption proposals together with a Highway Adoption Plan will be required for part of Waddeton Close (straight part) and a Road Management Plan will be required for the northern access point.

The swept paths for the site are acceptable. Detailed locations of bin store for dwellings on northern part of site will need to be provided with a servicing plan (Waste Management) as this access road is not shown as being for adoption. The proposed pedestrian crossing point on Waddeton Close will need to be moved to over 5m from the junction. The Travel Plan should include provision to appoint a Travel Plan Coordinator.

Public Transport 27.09.2023 and 30.10.2023: This area is served by bus services 13 and 23 and also SB1. No objection subject to following improvements to be secured through a s106 agreement:

- Replace shelter on White Rock Way/Waddeton Road with Fernbank Shelter and seating, land to be adopted by Council
- Retain existing bus stop layby and clearway on Waddeton Road
- Relocate south bound bus stop on White Rock Way and provide shelter – location dependent on detailed layout at RM stage.

Also discussed possibility of bus stop on other side of Waddeton Way and pedestrian crossing but understand these are in other ownership. Sustainable transport contributions would be CIL funded.

Sustainability Officer 22.08.2023

Recommends a condition securing a detailed energy and sustainability statement at reserved matters stage that will outline the specific detail incorporated into the site to meet Policies SS14 and ES1 of the Local Plan. This should identify how the site will conserve energy, use energy-efficient fabric and construction and use on-site or near-site low-carbon and renewable technologies. It should also include materials, design, water consumption, waste management travel planning and carbon offsetting.

There are intermediate/high pressure gas mains in proximity to the site. No excavations are to take place above or within 10m of confirmed position of these mains without prior consultation with Wales & West Utilities. Safe digging practices must be used to verify actual position of the apparatus on site.

National Grid

No objection. There are no National Gas Transmission assets in the area. There are no National Grid Electricity Transmission assets affected in this area.

South West Water 21.08.2023

No objection. South West Water is able to provide clean potable water and provide foul sewerage services.

The proposed surface water discharge into the surface water sewerage network is acceptable and meets the Run-off Destination Hierarchy. The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements with regards to Asset Protection, Clean Potable Water, Foul Sewerage Services and Surface Water Services.

Police Designing Out Crime Officer 11.08.2023

No objection. Advises of the Building Regulation requirements for ADQ and recommends Secured by Design suppliers for door and windows to all ground floor, basement and easily accessible windows. Comments specific to this development:

Design

Crime, fear of crime, ASB and conflict are less likely to occur if the following attributes of Crime Prevention through Environmental Design (CPTED) are also considered in the design and layout of the proposed scheme:-

Access and movement (Permeability) –

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

Pathways where possible, should not be designed so they run directly adjacent to rear or side boundaries of dwellings or close to doors and windows as this has proven to generate crime and ASB.

Structure – (Design & Layout) –

Places should be structured so that different uses do not cause conflict.

Surveillance (Natural, Formal & Informal) –

Places where all publicly accessible spaces are overlooked. LAPs and LEAPS should be located where there is natural surveillance from nearby dwellings - there is a concern that one of these may lack surveillance.

Ownership –

Places should promote a sense of ownership, respect, territorial responsibility and community. Boundaries between public and private spaces should be clearly defined and open spaces must have features that prevent unauthorised vehicular access.

Physical protection –

Places that include necessary, well-designed security features as required by ADQ and SBD Homes 2019. Rear boundary treatments must be robust and attain a minimum height of 1.8 m. If greater surveillance is required, the solid boundary treatment could be reduced to 1.5m with a trellis topping of 0.3m or 0.6m. Where gates are installed for access into private rear gardens these should be the same height of the adjoining boundary treatment, robustly constructed and be lockable from both sides, by means of a key for example.

Rear access paths should be gated with access controlled for the associated residents only. Gates should be as near to the front of the property as possible.

Communal bin and cycle stores should be lockable and have emergency egress.

Activity –

Places should have an appropriate level of human activity to the location and create a reduced risk of crime and a sense of safety at all times.

Management and maintenance –

Places should be designed with management and maintenance in mind, to discourage crime in the present and the future.

Parking -

Lighting proposals welcomed.

Natural surveillance of southern parking court should be improved -i.e. from active rooms (kitchens/living rooms)

Signage recommended to inform the private parking for residents.

Planning Officer Assessment

1. The Principle of Development
2. Design and Visual Impact
3. Residential Amenity
4. Highways Access and Safety
5. Landscape and Green Infrastructure
6. Ecology and Biodiversity
7. Flood Risk and Drainage
8. Low Carbon Development
9. Affordable Housing
11. Housing Supply

1. The Principle of Development

The proposal is for outline planning permission for up to 60 residential dwellings on the land. The relevant policies of the Development Plan are Policies SS1, SS2 and H1 of the Torbay Local Plan (TLP), Policies PNP21 of the Paignton Neighbourhood Plan (PNP) and the NPPF.

Policy SS1 identifies White Rock as a Strategic Delivery Area and a sustainable location for future growth. Policy SS2 identifies White Rock as Future Growth Area (SDP3.5 White Rock). The application site forms part of the Future Growth Area where there is a presumption in favour of sustainable development.

Policy SS3 sets out that planning applications that accord with the policies of the Local Plan and Neighbourhood Plan will be approved.

The application site is part of the wider White Rock development site identified in the PNP (Policy PNP21) for employment and housing development, enhancement of South Devon College, ecological assets and community uses.

With regards to the history of the application site under previous planning approvals, it was identified as part of the Local Centre of White Rock and indicative layout plans (approved Access and Design Statement, 14912 V2 under outline permission P/2011/0197) showed some office accommodation, some housing and some open space. However, the site was not the subject of any reserved matters applications under the outline permission, which has since expired (April 2016) and no timing for delivery of the local Centre was agreed. No subsequent planning applications have been submitted for the application site. As such no specific use or development has been previously approved for the land.

Housing

While the application site has not been identified as a specific allocation in the Torbay Local Plan 2012-2030 or the PNP for additional units, the proposal to provide housing on this site is, in principle, one that is in accord with the Policies of the TLP and the PNP.

Policies SS12 and SS13 set out the Council's intention to maintain a rolling five-year supply

of deliverable sites. Policy H1 of the TLP 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.

It is relevant to appreciate that the Council cannot currently demonstrate a 3 or 5- year housing land supply and for decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan (site allocations) are considered to be out of date. The policies, therefore, should be afforded limited weight within the current decision-making process. In terms of determination of applications for housing the 'tilted balance', as set out in Paragraph 11 of the NPPF, guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF.

In summary, while the site may not be specifically allocated in the Neighbourhood Plan, it falls within a Strategic Delivery Area and accords in principle with the Policies of the TLP and the area designation in the PNP of the White Rock Area.

The site has been put forward in the HELAA review 2022/23 (Site reference number 21P079) for residential use with a yield of 60 dwellings (or equivalent). It is graded yellow (minor constraints). The outcome of this review is pending.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering strategic policies SS1, SS2 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP21 of the Paignton Neighbourhood Plan, and the Development Plan as a whole.

Commercial Use

Policies SS1 and SS2 of the TLP and Policy PNP21 of the PNP support the provision of employment opportunities in the White Rock area.

The outline planning permission for White Rock included employment space. Development further to the outline permission has occurred at the Local Centre (e.g. Epic Centre) and industrial units at the Western Bowl.

The current submission includes a small amount of commercial/community space on the site (approximately 66sqm GIA or up to 70 Gross net). The provision of a commercial/community space would potentially create employment opportunities in the locality. The purpose has not been specified but the applicants suggest that a use falling within Class E (commercial) or F2a) and b) (essential local shops or meeting places for the principal use of the local community) would be appropriate. It is considered that these uses are compatible with the residential area. The amount of commercial space and its use class can be secured through a planning condition and this is recommended.

Public Open Space

Policy SC2 of the TLP states that new developments should provide access to sport, leisure and recreation facilities to assist in delivering a healthy environment. Policy SC5 seeks the provision of open/play space and access to urban greenspace to provide local, affordable activities and play spaces to contribute towards reducing child poverty across the Bay. These policies are relevant to new housing developments and especially those including family-sized homes and affordable housing.

The original outline permission for White Rock included 15Ha of open space in the description of development for the White Rock site overall. The approved development indicated provision of more than the minimum amount of sport and open space facilities set out in the SPD of the time. The original s106 agreement for the outline permission sets an obligation to provide public open space of certain areas for provision of a playing pitch, MUGA and 3 play areas. These were to be provided within the overall total of 15Ha of open space. The deed of variation relating to the Sports facilities made amendments the required pitch sizes and permitted transfer of the sports pitch areas to South Devon College to manage. The College allows community use of these facilities for a reasonable fee. The play areas and some areas of informal open space are open to the public.

Nevertheless, the description of development remained the same and includes 15Ha of open space. Calculations by the applicant identify that 14.58Ha has been approved or is in the process of being provided through the sports areas, residential phases and allotments.

The Council's pre-application response to the developer on the current proposals set out that the Council would expect any development proposals for this site to include a significant amount of high-quality public realm/open space and seek to deliver some of the previous aspirations for connectivity, recreation and place making at the core of the White Rock area.

Current Application

With regards to the 60 additional dwellings in the proposed development, these are CIL liable and contributions towards leisure and open space would be provided through that mechanism. However, the current SPD (2022) requires some on-site provisions. Table 4.10 sets out a guideline threshold for developments of over 50 dwellings to provide both a Local Area for Play (LAP) and a LEAP (Local Equipped Area for Play) and some informal green space on-site (25sqm per person). Where open space is provided on-site an arrangement for maintenance is required.

The current application indicates provision of 0.32Ha of public open space as shown in the Illustrative masterplan. The proposed housing size mix would yield a likely population of 131 people. An area of 0.32Ha would meet the requirement for 25sqm per person.

The illustrative layout also includes a LAP, a LEAP and footpaths connecting through the site to residential areas and the Local Centre. The proposals include indicative shrub and tree planting. The illustrated level of provision would be Policy compliant for the new dwellings.

The illustrative layout would achieve connectivity and permeability between the local centre, public transport services and the recently developed residential areas at White Rock.

It is recommended that the quantum of public open space and play facilities is secured through conditions and that details be submitted with the first reserved matters application. The Green Infrastructure Team have commented that the public open space would be suitable for adoption and request that the land be offered to the Council for adoption with a 25-year maintenance fund. This can be secured through a s106 agreement and this is recommended.

Summary

The provision of 0.32Ha of public open space in this central location would provide policy compliant public open space for the proposed 60 dwellings. In addition, it would reduce the shortfall of open space on the overall White Rock site from 0.42Ha to 0.1Ha.

In principle, the proposals for housing, commercial space and open space are in compliance with Policies SS1, SS2, SS3, SS13, SS14, H1, SC2 and SC5 of the TLP and Policies P1 and PNP21 of the PNP and the NPPF.

The principle is subject to other material considerations including the Local Plan Policies, which set out criteria that must be met to achieve satisfactory sustainability and design. In this location Policy SS2 requires developments to provide a bespoke mitigation plan for the Greater Horseshoe Bats to demonstrate sustaining an adequate area of non-developed land for local foraging and flyways. Developments are also required to deliver a range of housing types including family and affordable housing, links to services, facilities, integrated green infrastructure and high-quality design including sustainability and energy efficiency, which are discussed in more detail below and found to be acceptable.

2. Design and Visual Impact (Layout, Scale and Appearance)

The application seeks consent for the location of the proposed access, being in outline with all other matters reserved for future consideration. The submitted information does include an indicative site layout and potential character and appearance of the development. It is necessary to consider whether the submitted illustrative details indicate and ultimately provides sufficient comfort that the amount of development (up to 60 dwellings and one commercial unit) could be appropriately achieved in terms of its layout, design and character, without undue visual impact.

The NPPF states (Paragraph 126) that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve and furthers that good design is a key aspect of sustainable development. Several expected design outcomes follow in Paragraph 130 and the Framework furthers, in Paragraph 134, that development that is not well designed should be refused.

There is consistency with the NPPF across Local Plan Policies SS2 (Future Growth Areas), SS11 (Sustainable communities) and DE1 (Design). Policy SS2 seeks development to integrate with existing communities and reflect landscape character, Policy SS11 states that development must help to create cohesive communities within a high-quality built and natural environment. The policy also includes expectations for development to help develop a sense of place and local identity, deliver development of a type, scale, quality, mix and density appropriate to its location, and protect and enhance the natural and built environment. Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

Design outcomes are also prominent within the PNP with PNP1 (Area Wide) including reference to enhancement of local identity, PNP1(a) citing the importance of development responding positively to its context when in the Rural Character Area, PNP1(c) again identifying the importance of strengthening local identity, and PNP21 (White Rock) expresses the importance of sensitive development within its context.

Scale and density

The site area is 1.2Ha. The proposal for 60 units on the site would result in a density of 50 dwellings per Hectare. While this is at the upper end of density range for the area, the site is on the edge of the local centre and circumvented by estate roads which achieves both separation from neighbouring dwellings and ease of access from the roads. The indicative layout and appearance provide an indication of whether the amount of proposed development can be satisfactorily accommodated on a site.

The indicative masterplan demonstrates a scale of development in the south of the site that reflects the three-storey, terraced urban form on the opposite side of White Rock Way. At the northern end of the site a four-storey apartment block would not be out of keeping in terms of height and form with the adjacent commercial buildings at the Epic Centre and the hotel.

Site Sections illustrate the prospective heights and form development would be achievable without being unduly bulky in the townscape. The indicated open space would provide a green boundary to the western side of the site and create spacing between the new development and the two-storey houses to the west. This spacing depends upon securing the open space as part of the development, together with planting.

Layout

The application is supported by an Indicative Masterplan that presents a potential layout for the proposed volume of development. The layout proposes two vehicle accesses from Waddeton Close to provide culs-de-sac providing access to parking areas at the north end and south end of the site.

The proposal takes the opportunity presented by the site's position to provide much-needed connectivity between the new residential areas, the local centre and transport facilities with an attractive green swathe and footpath connections through the centre of the site on the east-west axis.

The illustrative layout indicates that car parking would be provided to meet the requirement for two spaces per house and one per flat. The layout also indicates gardens for the houses. The flats do not have allocated private amenity areas in the indicative layout. However, there is potential for balconies and the overall site indicates provision of public open space in the central area adjacent to the flats. Details would need to be assessed at Reserved Matters stage. The location of the site, adjacent to the local centre and Waddeton Road, raises issues of ambient noise (see amenity section of this report).

In terms of the character, the layout presents a transition between the commercial form of the Local Centre and the residential areas to the south and west. It also takes the opportunity to create a pleasant connection route and vista across the site with space for play and informal leisure.

All matters considered the indicative layout and arrangement of buildings and landscaped areas is considered acceptable.

Appearance (form and materials)

The indicative masterplan presents a part commercial edge/part high density residential layout. The appearance of the terraced houses with ridged roofs of uniform type on the south end of the site echoes the style of the houses on the south side of the White Rock Way. Materials would be determined at Reserved Matters stage.

The bulk of the four storey, flat-roofed block is indicated on the Illustrative Site Section drawings. The facades would require some texturing and breaking-up to achieve a less blocky, monolithic appearance in the location between commercial and more traditional houses. However, such details would be determined at Reserved Matters stage.

Based on the indicative information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP21 of the Paignton Neighbourhood Plan and

the NPPF.

3. Residential Amenity

The TLP contains policies to ensure that appropriate residential standards are achieved in residential schemes, including size standards, through Policy DE3, and that development meets the needs of residents and enhances their quality of life, through Policy SS11. The PNP, in Policy PNP 1(d) (Residential Development), presents guidance on supporting elements required for residential units and the NPPF (Para 130) 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.

Future Occupiers

The quality of the future residential environment is assessed in terms of the size and quality of the internal living spaces, the levels of outlook and natural lighting afforded key habitable rooms, levels of privacy, along with the quality of outdoor spaces and access to waste, cycle and car parking facilities, which are all integral elements for household developments. The aspiration is to secure a good level of amenity for future residents.

The submitted Design and Access Statement indicates that these would be 3-bedroom houses and 1 and 2 bedroom flats. The housing mix and number of bedrooms is not defined in the description of development and could vary at Reserved Matters stage. The submitted layout is indicative and therefore the compliance of the scheme with policy design expectations cannot be fully assessed at this stage. The layout also indicates gardens for the houses of around the 50-55sqm. The flats do not have allocated private amenity areas in the indicative layout. However, there is potential for patios/balconies (subject to the clarification of boundaries between private and communal spaces) and the site layout indicates provision of public open space in the centre. Details would need to be assessed at Reserved Matters stage.

The layout indicates parking facilities, which appear, on average, to be in accordance with the standards in the Torbay Local Plan.

The distances between properties are generally 20 to 25m or more for directly facing elevations. Due to the indicative nature of the outline proposals, the window positions are not definite. Satisfactory distance and orientation are more reliable resolutions of intervisibility issues. The indicative layout shows that these could be achieved, although detailed assessment would be necessary at Reserved Matters stages. There may be some natural overlooking of gardens, but this is commonplace within residential environments and there are no unacceptable, i.e. overly dominant, relationships. In terms of the internal living spaces all houses and flats are indicative at this stage and would be assessed in detail at Reserved Matters stage.

In terms of ancillary elements of parking, cycle parking and waste storage, details would be sought on the location and form of cycle parking and bin storage to meet required standards at reserved matters stage.

Noise

The NPPF requires development to avoid noise giving rise to significant adverse impacts on health and the quality of life. The recommended NPSE Policy reinforces this approach and aims for developments to mitigate and minimise adverse impacts on health and quality of life. Expected internal and external noise levels are set out in BS 8233:2014. Noise levels should not exceed 35dB in living rooms and 30dB at night in bedrooms. For external amenity spaces this figure is 50dB and, in locations close to strategic roads, 55dB.

The application site is adjacent to the supermarket and Epic centre delivery areas and car parks on a rear access road (Waddeton Close) behind the Brixham Road frontage. The other sides of the site are also bounded by roads: White Rock Way and Waddeton Road which lead to the residential areas on White Rock and the lanes to Waddeton and Stoke Gabriel villages. These roads are well-used throughout the day and evening.

An acoustic report was submitted, which assessed the impact of noise from the local road network and surrounding commercial use on the residential environment of the site. The report concluded, in Section 8, that it would be necessary to design the fabric and ventilation of the proposed dwellings to control the levels of internal environmental noise to meet the BS levels (construction, insulation on elevations, glazing and ventilation) for most elevations of all buildings. Section 9 shows that the amenity areas would have noise levels of below or equivalent of 50dB during day times if 1.8-metre-high (10kg/m²) fences are installed.

It is recommended that a condition is applied requiring the internal and external noise levels to comply with BS standards and for details of mitigation measures to achieve those standards be submitted at RM stage and evidence that the levels are achieved be submitted prior to first occupation.

Subject to conditions as suggested the proposed residential environment is considered acceptable for all future users and would accord with Policies SS11, DE1 and DE3 in the Torbay Local Plan, PNP1(d) of the Paignton Neighbourhood Plan, and advice contained within the NPPF regarding creating good quality living environments.

Neighbouring occupiers

The construction phase would have some temporary impacts on the amenity of neighbouring occupiers.

Concerns were expressed by neighbouring occupiers over the following:

- Noise, dust and disturbance from construction work -impact on health
- overdevelopment

Highway, parking and ecological impacts are considered in Sections 4, 5 and 6 of this report.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and delivery and agreeing processes to limit noise, dust and construction movement and parking impacts through a planning condition requiring a Construction Management Plan.

The proposed residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area.

Details of the scale and appearance would be established within future reserved matters applications, but the indicative layout and sections illustrate that the scale of residential development proposed would be unlikely to result in significant loss of outlook or natural light. The properties are expected to be set at appropriate distances from the front elevations of houses in White Rock Way and Waddeton Road. The indicative layout shows that most facing elevations are 25m apart. Details of the layout and windows positions would be submitted as part of reserved matters applications and the issue of privacy and avoidance of overlooking would be fully assessed at that stage. There is likely to be some natural overlooking of gardens, but this is a situation within residential

environments and there are not unacceptable, i.e. overly dominant, relationships in the indicative scheme. The submitted proposal is, therefore, considered to demonstrate a reasonable level of amenity for future and existing occupiers.

A range of conditions are recommended to ensure that adequate details are submitted for the Council's consideration at RM stage. These include details such as boundary treatments, refuse storage, landscaping, and so on. However, based on the indicative masterplan and supporting information currently submitted, it appears that a development of up to 60 dwellings could, in principle, be achieved at the site in terms of its layout, appearance, scale, and the associated impacts on visual and residential amenity.

In summary, and subject to conditions, the proposed access arrangements, indicative layout and supporting information are considered to demonstrate the potential to provide a satisfactory form of development, in terms of protecting the amenities of adjacent occupiers or the school, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan and the NPPF.

4. Highways Access and Highway Safety

The NPPF guides that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) 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 (Para 108).

It also states (Para 109) 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 would be severe.

Policy TA2 of the Torbay Local Plan states that all development 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. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided.

The site falls within the Western Corridor area identified in the Paignton Neighbourhood Plan (PNP22). In this area development proposals are required to enable or provide active travel facilities, wherever achievable. The policy seeks to secure safe and continuous cycling and pedestrian pathways to schools, employment areas and across countryside. Area-Wide policies require that sustainable modes should be encouraged and that suitable parking and cycle facilities be provided within residential developments.

Site Access

The Outline application seeks approval of the proposed accesses into the site. This includes consideration of vehicle access and access for other forms of transport such as walking and cycling in the context of existing connectivity.

Vehicle Access

With regards to vehicle and cycle access, the development would be served by two new accesses from Waddeton Close on the east of the site. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction positions and supporting transport information and have raised no objections in principle in relation to the proposed vehicular access arrangements. However, they have requested that a highways adoption

plan be submitted. An indicative road adoption plan for the illustrative masterplan was submitted. The extent of roadway considered for adoption will need to be considered at Reserved Matters stage. A road adoption plan can be secured by condition further to Reserved Matters details for layout and this is recommended. The Highways Engineers comment that the straight part of Waddeton Close would be acceptable for adoption. The bend would not be adoptable due to the angle of the bend and visibility splays. They request a Road Management Plan for the northern access point.

Visibility splays

The proposed site access points from Waddeton Close are shown on the illustrative layout. Waddeton Close would be adopted from the south end (junction with White Rock Way) to the northern access point. This stretch needs to be designed and constructed to adoptable standards in order to be adopted. The new junctions would require adequate visibility splays for vehicles and pedestrians turning into the site.

The visibility splay drawings in the submitted in the Transportation Assessment (reference P2023-0621-2 v2) for both new vehicle accesses from Waddeton Close are considered acceptable by the Highways Department.

Pedestrian Access

With regards to pedestrian access, the illustrative layout shows two pedestrian routes across the site: one through the southern housing area and one through the public open space. Both would run from the shared foot/cycle way on Waddeton Road to Waddeton Close near to the pedestrian link from the rear of the supermarket.

The Highway Authority commented that the southern vehicle access and the pedestrian crossing point at the rear of the supermarket present a potential conflict between vehicles and pedestrians and recommended that the access be moved so it is not directly opposite the pedestrian access.

A Technical Note (KTC September 2023 v4 and referenced P-2023-0621 (Response to Comments – Tech Note) proposed provision of a Zebra crossing just north of the southern vehicle access which would link into the footpaths on the application site.

Highway Authority response indicated that the location shown (on Drawing Number 1127-106) in the Technical note would need to be amended to position the crossing at least 5m from the site access junction. There appears to be space to achieve this requirement.

It is recommended that the provision of the pedestrian crossing over Waddeton Close be secured as part of the s38 and that details be submitted at RM stage.

Cycle Access

Direct access to the site by cycle is not specified. The west side of the site is bordered by the shared footway and cycle path along White Rock Way and Waddeton Road. The Local Centre is also served by this route which continues on to the South Devon College to the north and east across Brixham Road to connect with the south route to wards Hookhills. Given this connection, no additional cycle routes are proposed.

PICS

The applicant provided PICs data and the Highways Department considers that there are no operational safety issues that would be exacerbated by the proposed development.

Public Transport and Sustainable Transport

The development would generate net additional trips but not that would give rise to the need for additional works to the highway junctions on the surrounding highway network.

The development is CIL liable and sustainable transport contributions are normally sourced through that mechanism. Site-specific measures may be secured through a s106 agreement to promote active travel or improve the accessibility of public transport.

The site is served by a bus-stops for routes 13 and 23 and SB1 on the west and south sides of the site on Waddeton Road (existing stone shelter) and White Rock Way (lamppost 7A). The existing stone shelter is in a poor state of repair and does not currently have a flag. The stop at Post 7A has no shelter.

Discussions with Public Transport Team of Torbay Council has secured agreement to: remove this existing bus shelter, replace it with a “Fernbank” shelter, supply a flag and the Council adopt the land upon which it would sit to include it in the Council’s maintenance and repair schedules. This can be achieved through a condition and appropriate legal agreement (s38/s106) and this is recommended.

The position of the second stop, on White Rock Way, may be affected by the development, depending upon the detailed layout. The Highways and Strategic Transport Teams require the bus stop to be provided with a two-bay shelter and the position to be agreed with the Highways Authority with regards to traffic safety and keeping the shared foot/cycle paths clear. Highways have commented that the proposal to move the bus stop to a lamp post outside the supermarket land would impact traffic safety and flow on WhiteRock Way. In addition, the shared cycle/footway would need to be kept clear. Therefore, a bus stop and shelter (or a footpath diverting around a shelter) would need to be provided within the application site.

As this matter depends upon the detailed layout it is recommend that a review to achieve a safe and convenient facility is undertaken at reserved matters stage and secured through a condition and appropriate legal agreement (s38/s106) further to this outline application.

Parking

Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces and garages.

The submitted Design and Access Statement and Transportation Assessment set out that each flat (36) would be provided with one car parking space and each house (24) with two spaces (total requirement 84 spaces). The open spaces (71) are shown on the indicative layout plans. This leaves thirteen spaces to be provided as integral garages, which is feasible in the submitted illustrative layout (13 houses having frontage parking spaces accessed from roadways).

This meets the requirement set out in Appendix F of the TLP and demonstrates the capacity of the site for the number of dwellings. The detailed internal site layout, parking provisions, garage dimensions and hard landscaping would be the subject of reserved matters applications.

The submitted documents set out that electric charging for one vehicle at each dwelling would be provided. Details can be sought to accord with Development Plan expectations, at reserved matters stage. This can be secured through a condition, as recommended.

Cycle storage for dwellings could be provided within private amenity areas. For flats these would need to be in secure and weatherproof stores. The illustrative layout shows these as accessed from outside and in one case detached from the buildings they would serve. In practice, cycle parking and bin stores should be internal to the flatted blocks to prevent vandalism/anti-social behaviour. Details to meet this requirement can be secured at reserved matters stage through a condition and this is recommended.

Neighbouring occupiers have expressed concern about the potential for overspill parking on the roads around the site. However, the outline indicative proposal demonstrates that the Council's parking standards could be met. Proposals submitted under Reserved Matters applications would be required to comply with those standards. As such, the outline proposal is unlikely to result in significant impacts on highway safety and convenience of neighbouring road users as a result of parking overspill.

Internal Road Network

The Outline application seeks approval for site access. Site layout matters, including internal roads and paths, are reserved matters.

However, an indicative layout plan (2482-P1) and Permeability Plan (2482-P4) have been submitted. This shows that vehicles and pedestrians would have segregated surfaces giving access to each dwelling by foot from the footways and also from parking spaces and parking courts.

The proposed network is considered acceptable in principle. Consultation with Highways and Waste raised points for clarification, such as swept paths for refuse vehicles being accommodated within the adopted highway and lighting. A road adoption plan (1127-005B) and swept path diagram (Figure 4A) were submitted in the Technical Note (KTC v4 Sept 2023) response to highway comments.

These were assessed by Highways and found to demonstrate acceptable waste and emergency vehicles access to the southern part of the site. Details would need to be compatible with highway adoption standards. A Waste Management Plan and details of bin store locations would need to be submitted with Reserved Matters applications for layout.

Full details can be secured by condition to be provided with reserved matters applications for layout.

The proposal is considered to demonstrate an acceptable road layout, subject to the conditions recommended above.

Travel Plan

A Travel Plan Statement has been submitted with the application (referenced P-2023-0621-3 July 2023). The Statement outlines a strategy of providing cycle parking and electric vehicle charging points, a residents' travel information pack, sustainable travel vouchers towards active travel products (public transport tickets, cycles, fitness tracker to value of £150 per dwelling), a residents' notice board, information about public transport and car sharing networks.

It is recommended that the implementation and monitoring of the Travel Plan be secured through Section 106 obligations.

Highways Summary

Considering the points above, and having regard to guidance contained within the NPPF, which states 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 would be severe (Para 111), the proposal is, subject to securing site-specific transport obligations, considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

The proposals, subject to conditions recommended above, are considered to present an acceptable scheme in terms of access and demonstrates an acceptable layout, in accordance with Policies DE1, TA1, TA2 and TA3 of the Torbay Local Plan, Policy PNP1(h) of the Paignton Neighbourhood Plan and the NPPF.

5. Landscaping, Green Infrastructure and Public Open Space

Landscaping is a key component of placemaking and in a rural context is an important influencer of character. The importance of contextual and effective landscaping is highlighted within the NPPF within Chapter 12, Achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character (Paragraph 130). The NPPF also makes reference to the important contribution of trees to the character and quality of urban environments (aside benefits of adapting to climate change) and states that decisions should ensure that new streets are tree-lined, that other opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), and that existing trees are retained wherever possible.

At a local level the TLP seeks high quality landscaping in Policy DE1 and Policy C4 states that development will not be permitted where it would seriously harm protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The policy also 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.

Policy PNP1(c) of the PNP includes reference to development proposals retaining existing natural features where possible, providing hedgerows on at least one boundary and including tree planting.

The illustrative masterplan layout and the submitted Tree Survey, Arboricultural Impact Assessment and Tree Protection Plans show retention of a line of mature trees in the centre of the site (3 pines and two silver birch) and replanting of the hedgerow/hedge-bank just inside the western road boundary. All other trees are shown as removed. Compliance with principles of these documents can be secured through condition. A scheme for tree protection will be required at RM stage.

With regards to the proposed planting scheme (920-01C – Planting Plan), the use of larger canopied and native species is recommended by the Arboricultural Team. In consequence, a scheme for enhanced shrub and tree planting within the street-scene, communal grounds of the flat developments and the public open spaces would be required as part of detailed landscape plans at reserved matters stage. In addition, details of the means of enclosure of the private spaces including communal grounds around flatted developments and the commercial space shall be required as part of the landscape schemes.

Off-site replacement planting is proffered in the Biodiversity Net Gain Strategy (see Ecology Section below). The provision, of any new boundary planting on the garden/road interfaces would also need to be secured through reserved matters (landscaping) and a LEMP.

Public Open Space

Residential developments are required to provide play and open spaces wherever practicable. Local Plan Policy SC2 sets a framework for provision of new recreational development. Policy SS9 Green Infrastructure is also relevant and advocates links between open spaces and residential areas. The Council's Adopted Planning Obligations

and Affordable Housing SPD requires on-site provision in schemes of this size (over 50 dwellings) of a LEAP and a LAP and informal open space of 25sqm per person.

As set out earlier in this report the illustrative scheme includes 3.2Ha of public open space, a LEAP and a LAP. It is recommended that these provisions are secured through a condition and that their provision is timely in accordance with a phasing plan to be submitted at reserved matters stage.

The Council's Green Infrastructure Team have indicated that adoption of the open space by the Council would be sought. This would require a contribution towards maintenance for a 25-year period. These can be secured through s106 agreement, and this is recommended.

Subject to the recommended conditions and s106 obligations, the outline indicative scheme is considered to present a scheme that is consistent with the Section 12 of the NPPF, and would be consistent with Paras 126, 130 and 131. The landscaping is also considered acceptable and considered compliant with Policies DE1, C4 and SC2 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

6. Ecology and Biodiversity

Policies NC1, SS2, SS8 and SS9 of the TLP and Policies PNP1, PNP1(a) and PNP21 of the PNP and guidance within the NPPF require development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy PNP21 d) seeks to improve the connectivity of local ecological and wildlife assets.

The key ecological issues relate to the use of the site by bats including Greater Horseshoe Bats (GHBs), along with considerations regarding cirl buntings and reptiles (together with broader biodiversity enhancement aspirations).

Ecological Impact Assessment

An Ecological Impact Assessment (NPA, 10874_124-P02 dated 24.04.2023) was submitted with the application, which identified that:

- there is bat activity on the site,
- there are two trees with bat roost potential,
- loss of 180m of species-rich priority habitat hedgerow and 2 trees
- loss of other habitats of lower conservation significance e.g. semi-improved grassland and scrub.
- Moderate potential for reptiles, invertebrates and nesting for birds
- Foraging by cirl buntings cannot be ruled out (but were absent from the site in latest survey and site isolated from farm hedgerows).

The report advocated the following mitigations:

- 100m of hedgerow around west boundary of site
- 40 trees (50% native)
- 0.1Ha of diverse/meadow grassland on-site
- 1.2Ha of Off-site BNG in field nearby (para 2.34 and Image 1)
- Tree protection fencing prior to construction,
- A LEMP to set out sensitive management of habitats
- Integrated bat and bird boxes in dwellings and on retained trees
- Planting to create off-site habitat for a range of common bat and bird species,
- Limit light impacts
- Avoid vegetation removal during March to August nesting season,
- Sensitive vegetation clearance and site construction,

The DCC Ecologist questioned the date of reptile and cirl bunting surveys, use of trees in pots, and lack of detail in the BNG metric over areas of habitat lost and created. The questions were resolved over the course of the application.

Lighting

A Lighting Assessment was submitted (Hydrock, Ref No 27111-HYD-XX-XX-RP-E-0001, dated 14 February 2023) with regards to ecological impacts, principally minimising light spill onto neighbouring residential properties. The recommendations are for lighting for E2 Rural setting: street lamp columns to be 4m -5m high (R2L2 by Thorn Lighting), low intensity LED lights.

Compliance with these parameters and details of a lighting scheme can be required at Reserved matters stage through a condition.

HRA

A Habitat Regulations Assessment was requested by Natural England as the site has a potential bat roost and lies within a known flyway of the Greater Horseshoe Bat (GHB) associated with the South Hams Special Area of Conservation (SAC).

The DCC Ecologist concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. A HRA is not required for this scheme.

Biodiversity Net Gain

Policy NC1 of the TLP and paragraph 179 of the NPPF seek biodiversity net gain on development sites. The applicants have submitted a summary biodiversity net gain metric and strategy for this outline application.

Biodiversity Net Gain Strategy in EIA

- to achieve net gain through on-site mitigation (as set out in the EIA and Illustrative Planting Plan (RedBay Design 920/01 Rev C and 920/02 Rev C)) and
- off-site mitigation on part (1.2Ha) of a field adjacent to White Rock identified in EIA at Image 1) to be changed from winter feed crop to 1.1Ha diverse grassland (hay meadow with tussocky edge) and 0.1Ha native mixed scrub and 300m of mixed hedgerow and trees.

NB this part of field is not part of the Ecological Mitigation works for either White Rock or Inglewood or Limekiln Close developments.

Biodiversity Baseline Metric – (Referenced P-2023-0621-7) is based on the outline strategy and illustrates the following:

- a loss of habitat units on the site, to be addressed through on-site and off-site mitigation,
- Overall, a net gain of 86% in habitats (83% if private gardens and tree in pots are excluded) and a net gain of 50% in hedgerows.

The Council's Ecology Advisor has concluded that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced subject to conditions.

Future reserved matters can be conditioned to include detailed measures to enhance biodiversity on-site in accordance with the outline BNG Proposals in the EIA and accompanying planting plans.

The off-site BNG proposals can be conditioned to be provided prior to development/vegetation clearance and the works secured through a s106 obligation.

To ensure protected species and habitats would not be unduly harmed and that the biodiversity net gain aspirations can be met, in accordance with guidance contained within the NPPF and the Development Plan, the following conditions are recommended:

1. A Construction Environmental Management Plan (CEMP) to include lighting and other measures of environmental protection during the construction phase (c7),
2. A Landscape and Ecological Management Plan (LEMP) habitat creation, species specification and management of on-site and off-site land for 30 years (c8),
3. No vegetation clearance or demolition during bird nesting season (c11)
4. Implement mitigation measures in accordance with the EclA and any requirements under licence from Natural England (including a pre-commencement badger survey and mitigation/compensation measures) (c12)
5. RMs to include bat roosting and bird nesting boxes in buildings and on retained trees (c12)
6. An ecological monitoring strategy shall be submitted for approval (c13).
7. RMs shall include a detailed Lighting Scheme (c14)
8. No veg clearance on-site until off-site BNG measures implemented (c15) and
9. RM's shall include submission of detailed on-site BNG proposals (c15).

It is anticipated that the ecological mitigation measures associated with this development would give rise to a need for one full day of monitoring per annum, to assess the bat mitigation, off-site habitat creation and linkages to the surroundings. Monitoring would be carried out over 30 years. Charged at a rate of £300 per day, this results in the requirement for a monitoring contribution of £2,400. This can be secured through a s106 planning obligation.

Derogation Test

The authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant a Bat Mitigation Class Licence which would permit the proposal to lawfully proceed, should one be applied for. The tests are sequential. The third test the DCC Ecologist concluded below.

i) There must be 'no satisfactory alternative';

ii) The consented operation must be for 'preserving public health or public safety or other imperative reasons for overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment';

iii) The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

With regards to the first test "a satisfactory alternative" is a scheme that delivers the objective that the project is seeking to deliver in a way which is less damaging to European sites when compared to the original proposal. The project proposes provision of 60 residential dwellings and commercial space. No other satisfactory alternative sites have been put forward to make this provision.

With regards to the second test, the Council is required by the Secretary of State to ensure sufficient housing land to meet the objectively assessed need for a five-year supply of housing. Torbay Council currently has a 2.52-year supply. The site would contribute to meeting the identified need, which is a public interest of significant weight with social and economic benefits. Given the context of housing land supply, the proposal is considered to be an overriding public interest and to meet the first two derogation tests.

With regards to the third test, the DCC Ecologist considers that, given the mitigation and compensation measures included within the Ecological Impact Assessment and the Biodiversity Net Gain Strategy, the third test of the Habitats Regulations is satisfied. It is reasonable to conclude that Natural England would grant an EPS licence for this development, should one be sought.

Subject to the recommended conditions and planning obligations, the development is deemed to accord with policies SS8, SS9 and NC1 of the Torbay Local Plan and policy PNP1(c) and PNP21 of the Paignton Neighbourhood Plan.

7. Flood Risk

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. The Paignton Neighbourhood Plan offers similar plan-wide aspirations in Policy PNP1(i).

The site sits in an area with a low risk of flooding (Flood Zone 1) but is not subject to surface water flooding. The site is within a Critical Drainage area as designated by the Environment Agency.

A Flood Risk assessment has been submitted with the application and accompanying surface water drainage scheme that would discharge surface water to an attenuation tank. Supplementary drawings and information regarding pipe lengths and gradients and the areas discharging to each pipe length were submitted at the request of the Drainage Team (Clarkbond, E05706/0001DS P3 dated 31.08.2023).

The Council's Drainage Engineer has reviewed the proposed surface water proposal and confirms that the submitted drainage strategy complies with the original White Rock Master Plan Drainage Strategy. Subject to implementation in accordance with the submitted strategy and supplementary information (pipe gradients, pipe diameter and connections to impermeable areas), the scheme is considered to be designed in order that there is no risk of flooding to property on the site or increased risk of flooding to property or land adjacent to the site (for critical storm events plus 50% for climate change).

South West water had no objection subject to details of surface water drainage being submitted for prior approval. They comment that there are public water mains crossing the site and advise the applicants to contact them as necessary with regards to these assets.

Subject to a condition requiring implementation in accordance with the approved Drainage Strategy or other to be agreed in writing with LPA, the scheme accords with Policies ER1 and ER2 of the Torbay Local Plan and policy PNP1(i) of the Paignton Neighbourhood Plan.

8. Low Carbon Development

The NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk 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 TLP seeks major development to minimise carbon emissions and the use of natural resources, including consideration of construction methods and materials. Policy ES1 seeks all major development proposals to make it clear how low-carbon design

has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

Paignton Neighbourhood Plan Policy PNP1(f) states that new development should aim to achieve where appropriate and subject to viability:

- i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change,
- ii) the use of reclaimed materials and natural finishes,
- iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development,
- iv) on-site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity or a vista of landscape value and
- v) connecting cycleways and footpaths where development involves new road infrastructure.

Low carbon and energy aspirations are considered in the submitted Energy and Sustainability Statement (D. Evans, 26.May.2023, Referenced No P2023-0621-4). The Statement illustrates how the proposed development could be designed using the Energy Hierarchy principles to deliver carbon dioxide savings using a fabric-first approach with passive design, high efficiency boilers, high efficiency lighting and on-site renewables. However, the report does not make specific calculations of carbon reduction or specific commitments to any identified design solutions.

The statement does not acknowledge the Council's commitment to become carbon-neutral by 2030, which is a material planning consideration, or the current Building Regulations. It does not fully acknowledge the Future Homes standards to be introduced in 2025.

The Council's Climate Emergency Officer has commented that the scheme requires commitment from the applicants through a detailed energy and sustainability statement and has requested a condition to secure commitments at reserved matters stage.

A detailed energy and sustainability strategy and detailed plan should identify how the development will conserve energy, avoid overheating, make efficient use of energy-efficient fabric and water and use on-site renewable energy technology in accordance with the Local Plan and Neighbourhood Plan. This shall include detailed plans of where the renewable energy sources would be located and calculations of the power demand and generation.

Therefore, a condition is recommended to secure, in any reserved matters application relating to the proposal's layout, scale and appearance, the above details of energy efficiency measures and sustainable construction.

The proposal is considered, subject to an appropriate planning condition, to have the potential to deliver on the low-carbon aspirations of the Development Plan, the Council's Carbon-zero commitment and the NPPF.

9. Affordable Housing and Adaptable Housing

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of over 30 dwellings that 30% of the units should be affordable housing. At 30% the scheme is expected to secure 18 affordable units.

The submitted Planning and Affordable Housing Statement sets out at Section 5 that the Applicant confirms that the development will provide this level of affordable housing with the Council's preferred tenure mix and accessibility standards.

This provision should be secured via a S106 agreement with elements of the provision, such as location, size and tenure mix, being agreed through the reserved matters stage when the form and layout is progressed beyond the current illustrative stage. Tenure will be expected to be in accordance with Policy H2 (1/3 social rented housing, 1/3 affordable rent and 1/3 shared ownership housing). The amenity for future residents will be expected to be to the same standards as for market housing.

In addition to the requirements of the Legal Agreement a planning condition is recommended to secure that all applications for reserved matters relating to the proposal's layout and scale shall include a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority, which shall include information about the siting, size, and tenure type of the affordable units.

The Council's Housing Delivery Officer supports the proposal in terms of an affordable housing offer.

Policy H6 requires that 5% of units are built to M4(2) standards (Accessible and adaptable dwellings). Details of compliance with this policy will be expected to be submitted as part of reserved matters applications.

11. Housing Supply

The Council cannot currently demonstrate a 3- or 5-year housing land supply, as sought by Government. The five-year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the housing supply position, it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

12. Health and Wellbeing

Policy SC1 requires development to contribute to the health and well-being of the community helping to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal. In particular, Policy SC1.3 seeks improvement to access to medical treatment services including healthcare clusters.

The NHS Trust was consulted on this application and has responded that health care services in the vicinity are under great pressure. The proposed development would potentially create a long-term impact on the Trust's ability to provide safe, accessible and sustainable service delivery to current and new residents. The proposal does not include the provisions of facilities to address this impact which would be in the catchment of

Mayfield Medical Centre (Cherrybrook Surgery) and Compass House (Galmpton Surgery). Contributions are, therefore, sought to mitigate this direct impact and the amount sought is £621 per dwelling (£37,258 for 60 dwellings). This can be secured through a s106 agreement to accord with Policy SC1.3 of the Torbay Local 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. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. The development would see the use of land within a designated growth area. Once the development is 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.

There are no adverse economic impacts that would arise from this development. 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 18 Affordable Housing units. 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 30% of the units being Affordable units. The social impacts of the development weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development the development is supported by drainage, landscaping and ecological and Biodiversity Net Gain measures to mitigate impact, as detailed in this report. It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

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

CIL

The development is CIL liable being in Zone 2 (built up area as designated on the CIL maps).

S106

The following are draft heads of terms for site-specific obligations for a s106 legal agreement, which should be completed prior to a planning consent being issued. The applicants have agreed to these Heads of Terms. Triggers and instalments in relation to financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

- 30% Affordable Housing (18 units),
- NHS health and wellbeing contribution at £621 per dwelling,
- Public Open Space Green Space and Recreation – offer to Council adoption and transfer with 25year maintenance fund.
- Biodiversity Net Gain and ecological mitigation to be provided off-site prior to commencement of development,
- Ecological Monitoring fee (£2,400),
- Travel Plan Implementation and monitoring (£1,500)
- Administration and Monitoring charge of 5% (towards cost incurred by the Council in monitoring compliance, collection , allocation and expenditure of contributions).

The following will be secured by s106 or s278/s38 agreement dependent on their location:

- Bus stop and shelter replacement on Waddeton Road and offer land to Council for adoption as Highway and
- Bus stop and shelter provision on White Rock Way and offer land to Council for adoption.

EIA/HRA

EIA:

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

HRA: The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC. A Habitat Regulations Assessment has screened out impacts on the South Hams SAC.

Planning Balance

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

The impacts of the scheme are not unacceptable, subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications.

The White Rock area is identified for housing within the Development Plan and the proposal would create additional dwellings within the overall area of White Rock and not render the approved outline permissions for White Rock (P/2011/0197) unimplementable,

Concerns regarding the impact upon the Greater Horseshoe Bats and flooding are resolved to the satisfaction of the statutory consultees on these matters.

The Highway Authority does not object to the proposed vehicle access and its impact upon the road network. However, details would fall to be assessed under Reserved Matters applications.

The impacts upon the character of the area, landscape and amenity of neighbouring residential occupiers have been assessed as far as is possible at outline stage. The impacts are not considered significant. However, details would fall to be assessed under Reserved Matters applications.

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 conditions, and securing a Section 106 Agreement to secure the identified heads of terms in line with adopted policy.

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

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay. For housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, the NPPF guides to granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (60 dwellings and 30% affordable), when assessed against the policies in the NPPF when taken as a whole. Subject to the recommended conditions and planning obligations, there are no impacts on protected areas or assets of particular importance to provide a clear reason for refusal.

Officer Recommendation

Approval: subject to;

1. The completion of a Section 106 Legal Agreement to secure the heads of terms above, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.
2. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency,
3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and

Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

Standard Time Limit:

That in the case of any reserved matter, an application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates shall be begun not later than five years from the date of this permission or not later than two years from the date of the approval of the last of the reserved matters to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

1. Reserved Matters

Details of the reserved matters set out below (herein after called the “reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority in accordance with the above time limits:

- (i) layout,
- (ii) scale,
- (iii) appearance (including schedule of external materials to include hard-surfaced areas); and
- (iv) landscaping (to include soft landscaping, boundary treatments, screening and all means of enclosure) and
- (v) other accesses (other than the principal access to the site as submitted for approval as part of this application).

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

The details of reserved matters shall be in general accord with the Illustrative Site Layout (Narracotts 2482-P1) and shall include a minimum of 3.2Ha of public open space, a Local Area for Play and a Locally Equipped Area for Play.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Phasing Plan

A phasing plan shall be submitted to and approved in writing by the Local Planning Authority not later than the first application for reserved matters approval. The plan shall set out how each part of the development will be implemented in relation to an agreed timetable of works.

The Phasing Plan shall include the provision of off-site Biodiversity Net Gain works prior to commencement of development on the site consistent with the principles established in the Ecological Impact Assessment and BNG Metri

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

Reason: To ensure a satisfactory completion of the development.

3. Phasing Plan

The phasing plan shall also include locations of play areas and green infrastructure consistent with the Illustrative Layout (Narracotts 2482-P1) to include a minimum of:

- i) 3.2Ha of public open space,
- ii) 1 Locally Equipped Area of Play of 400sqm,
- iii) 1 Local Area for Play of 100sqm and
- iv) a utility footpath from the bus stop area on Waddeton Road to Waddeton Close.

Applications for reserved matters approval shall be submitted in accordance with the approved phasing plan.

The phasing plan or reserved matters shall include a fully detailed specification of the play areas and public open space and a timescale for their provision. This shall include provision of the play areas, the open space and the footpath in the first phase, if there is more than one phase. No more than 25% of dwellings shall be occupied in any phase until the play areas, public open space and footpath have been completed and made available for use by the general public unless otherwise agreed by the Local Planning Authority in the phasing plan.

Reason: In the interests of providing public open space and play facilities to meet the needs of the development further to Policies SC1 and SC2 of the Torbay local Plan 2012-2030.

4. Play Areas

The Locally Equipped Area for Play (LEAP) shall be designed so as to be aimed at children of early school age and have an enclosed area of 400sqm with grass playing space and at least five types of play equipment with appropriate safety surfacing. There shall also be seating for accompanying adults.

The Local Area for Play (LAP) shall be designed so as to be aimed at children of pre-school and early school age and have an enclosed area of 100sqm with grass playing space and play opportunities. There shall also be seating for accompanying adults.

The Play areas shall incorporate buffer zones of at least 20m for a LEAP and 5m for a LAP from the edge of the activity zone to the boundary of the nearest dwelling.

Play areas shall be provided to at least European Standard EN1776 (play area) and EN1777 (hard surfaces) and maintained for at least 25 years.

Reason: In the interests of providing public open space and play facilities to meet the needs of the development further to Policies SC1 and SC2 of the Torbay local Plan 2012-2030.

5. Commercial Space - size, use and phasing

Commercial space shall be provided within the development hereby permitted. The commercial space shall not exceed 70sqm gross internal floor area. The reserved matters applications for Layout and Landscape matters shall include details of the location of the commercial space, the proposed use, associated parking and servicing areas, hours of operation and hours of delivery.

Notwithstanding the provisions of the Town and County Planning Use Classes Order 1987 (as amended) and the Town and County Planning General Permitted

Development Order (England) 2015 (as amended), without the prior written consent of the Local Planning Authority the commercial space shall only be used for purposes within Use Class E (Commercial, Business or Service) and/or Use Class F2 a) or b) (Local Community) and for no other purpose.

Reason: In the interests of amenity of neighbouring occupiers and the convenience and safety of other users of the site further to Policies DE3 and TA2 of the Local Plan.

6. Construction Method Statement

No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement for the development has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- (i) The parking of vehicles of site operatives and visitors.
- (ii) Loading and unloading of plant and materials.
- (iii) Storage of plant and materials used in constructing the development.
- (iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (v) Wheel washing facilities.
- (vi) Measures to control the emission of dust and dirt during construction.
- (vii) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
- (viii) Measures to minimise noise nuisance to neighbours from plant and machinery. Construction working hours shall be from 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority
- ix) Details of how lighting will be controlled during the construction phase of development.

The approved Statements shall be adhered to throughout the construction period of the phase of the development that they relate to.

Reason: In the interests of highway safety and the amenities of surrounding occupiers during the construction of the development further to Policies TA2 and DE3 of the Torbay Local Plan 2012-2030. 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.

7. CEMP

No development (including ground works) or vegetation clearance works shall take place for any part of the development until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- (i) Risk assessment of potentially damaging construction activities,
- (ii) Avoidance of use of herbicides,
- (iii) Identification of "biodiversity protection zones",
- (iv) Practical measures (both physical measures and sensitive working practices) to avoid or reduce environmental impacts during construction,
- (v) The location and timing of sensitive works to avoid harm to biodiversity features, including the use of protective fences, exclusion barriers and warning signs, covering of trenches at night, impermeable boundaries to include hedgehog holes,
- (vi) removal of invasive species,

- (vii) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken,
- (viii) Responsible persons and lines of communication,
- (ix) The role and responsibilities on site of an ecological clerk of works or similarly competent person,
- (x) Details of how lighting will be controlled during the construction phase of development.

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

Reason: To ensure that all existing trees and hedges and new planting on the site and on adjacent sites and off-site ecological mitigation works are adequately protected while development is in progress, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012-2030 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

8. LEMP

The reserved matters applications for Layout and Landscape matters shall include a Landscape and Ecological Management Plan (LEMP) for the development. The LEMP shall be consistent with the principles established in the Ecological Assessment (NPA 10874 124 P02, 24.04.2023).

The LEMP shall include:

- details of habitat creation on-site and off-site,
- species specification and
- management of on-site and off-site land.

The LEMP shall include an implementation strategy and timetable for implementation and maintenance for a 30-year period.

The development shall be implemented in accordance with the approved LEMP and with the approved timetable for the duration of the agreed management plan period.

Reason: To ensure that all existing trees and hedges and new planting on the site and on adjacent sites and off-site ecological mitigation works are adequately protected and maintained, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework.

9. Tree Protection during construction

No development (including ground works) or vegetation clearance works shall take place for any phase of the development until a Tree Protection Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. This information shall be prepared in accordance with BS 5837:2012 (or any superseding British Standard) and include details of tree protection fencing, which must be erected prior to the commencement of the development and retained until the completion of the development in the phase of the development that they relate to. No vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

The approved Tree Protection Plans shall be adhered to throughout the construction of the development.

Reason: To ensure that all existing trees and hedges on the site and on adjoining sites are adequately protected while development is in progress, in accordance with Policy NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

10. Landscaping Scheme.

Full details of both soft and hard landscape works shall be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:

- a) existing and proposed finished levels and contours,
- b) trees and hedgerow to be retained including avoidance of incursion into the root protection zones of all retained trees and/or specification of no-dig approach;
- c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;
- d) hard surfacing;
- e) means of enclosure and boundary treatments;
- f) Any other structures (such as furniture, refuse or other storage units, signs, lighting).

The approved landscaping scheme shall be implemented in the first season following completion of the part of the development site to which it relates in accordance with the approved phasing plan.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and C4 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and the guidance contained in the NPPF.

11. Bird Nesting and Vegetation Clearance

No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird breeding season from March to September, inclusive. If this period cannot be avoided, these works shall not be undertaken until a statement of the reasons for non-avoidance has been submitted to and approved in writing by the Local Planning Authority. The works shall not be undertaken except in the presence of a suitably qualified ecologist. If breeding birds are found or suspected to be present on the part of the site the subject of such works, the works will not be permitted until the ecologist is satisfied that such breeding is complete.

Reason: To prevent harm to nesting birds in accordance with policy NC1 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

12. Ecological Measures

The development shall be carried out in accordance with the recommendations set out in the submitted Ecological Impact Assessment (NPA 10874 124 P02, dated 24.04.2023) and any measures required under licence from Natural England. These measures shall include:

- i) Integrated bat roosting boxes and bird nesting boxes in the dwellings and retained trees.
- ii) tussocky grass margins adjacent to the hedgerows,
- iii) hedgehog gaps in fences.
- iv) prior to commencement of any site works or clearance, a repeat survey for the presence of badgers on the site and surrounding habitat with associated mitigation/compensation measures.
- v) Off-site habitat creation

The measures shall not be discharged until a qualified consultant ecologist confirms implementation in writing to the Local Planning Authority and shall be retained for the lifetime of the development.

The Developer must obtain Licence from NE prior to commencement of clearance, demolition or other works to the structure on southern boundary.

Associated reserved matters applications shall include proposals to include bat roosting boxes in the design of the buildings and details of the location and design of the bat house.

Reason: In the interests of protecting and maintaining the habitat of legally protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

13. Ecological Monitoring

Prior to the first occupation or use of the development hereby permitted, a Greater Horseshoe Bat (GHB) and Cirl Bunting Monitoring Strategy shall be submitted to and approved in writing by the Local Planning Authority in order to provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb GHBs using the bat mitigation measures on the site (including the dark bat corridors and foraging areas); and to put in place remedial measures to avoid harm to these species. The Monitoring Strategy shall include the following:

- (i) Aims and objectives of monitoring to match the stated purpose.
- (ii) Identification of adequate baseline conditions prior to the start of development.
- (iii) Success criteria, thresholds, triggers and targets against which the continued effectiveness of the bat mitigation measures can be judged.
- (iv) Methods for data gathering and analysis.
- (v) Location of monitoring/sampling points.
- (vi) Timing and duration of monitoring.
- (vii) Responsible persons and lines of communication.
- (viii) Review, reporting, intervals of reporting and where appropriate, publication of results and outcomes.

The Monitoring Strategy shall be implemented as approved. A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals as identified in the Monitoring Strategy. The report shall set out where the results from monitoring show that site conditions are changing and what remedial action is required to ensure the mitigation measures remain effective. The remedial action shall be agreed with the Local Planning Authority and implemented in full.

Reason: In the interests of protecting and maintaining the habitat of legally protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

14. Lighting Scheme as part of RM's

Prior to above-ground development a Lighting Scheme shall have been submitted to and approved in writing by the Local Planning Authority demonstrating compliance with the principles established in the submitted Lighting Statement (Hydrock, Ref No 27111-XX-XX-RP-E 0001 P01, dated 14.02.2023).

The Scheme shall minimise impacts from lighting associated with pre-construction, construction and operational activities and demonstrate how current best practice

(BCT/ILP, 218) guidance has been implemented. This shall include details of the following:

- a) Artificial light associated with the public realm lighting,
- b) Car headlights associated with traffic movements through the development and
- c) Internal and external lighting associated with the residential and commercial developments.

The Lighting Scheme shall be implemented as approved prior to the occupation of the associated element of the development and thereafter maintained as approved. Should any of the external lighting become damaged or defective and need replacement it shall be replaced with external lighting of no brighter specification.

No additional outdoor lighting shall be installed on the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of biodiversity and residential amenity, in accordance with Policies SS8, NC1 and DE3 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

15. Biodiversity Net Gain measures

No development or vegetation clearance shall take place on the site until a detailed scheme of measures to achieve a Biodiversity Net Gain over the Base Metric in accordance with the Ecological Impact Assessment (10874-124-P02, NPA, dated 24.04.2023) and Summary Biodiversity Net Gain Metric (Referenced P2023-0621-7 BMT) hereby approved has been submitted to and approved in writing by the Local Planning Authority. The full metric calculation shall include the assessment principals that have informed the proposals and shall use the most up-to-date DEFRA metric and associated guidance documents to secure a minimum 10% net gain over 30 years.

The approved measures for off-site Biodiversity Net Gain shall be implemented prior to the commencement of the development, unless a phasing strategy has otherwise been agreed in writing by the Local Planning Authority, and shall be permanently managed and maintained at all times thereafter in accordance with the approved details and LEMP.

All Reserved Matters applications for layout and landscaping shall include a scheme of measures to achieve a Biodiversity Net Gain on the development site. The development shall be implemented in accordance with the approved scheme and maintained thereafter.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF. This needs to be a pre-commencement condition to ensure that the impacts of the development on biodiversity and habitats are mitigated from the outset of development.

16. Highway Works - adoptable network plan and Road Management Plan

A plan showing the proposed adoptable highway network within the development site and a Road Management Plan for the access to the northern part of the stie shall be submitted with all reserved matters applications for layout. The plans shall demonstrate where connections will be made to other areas within and beyond the site. The development shall take place in accordance with the approved details.

No dwellings hereby approved that are accessed from the southern access point on Waddeton Close shall be occupied until the roads serving them have been constructed

to adoptable standards as defined in the Council's Highways Design Guide for New Developments and are the subject of maintenance arrangements previously approved by the Council or are the subject of an agreement with the Council made pursuant to s38 of the Highways Act 1980. No dwellings hereby approved that are accessed from the northern access point on Waddeton Close shall be occupied until the roads serving them have been constructed in accordance with the approved Road Management Plan.

Reason: To ensure adequate access is provided to the development in a timely manner in the interests of highway safety further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

17. Pedestrian Crossing and Bus Stop Infrastructure

No part of the development shall be occupied or brought into use prior to the pedestrian crossing on Waddeton Close and bus stop infrastructure on Waddeton Road and White Rock Way being implemented in accordance with any necessary s278/s38 highways agreement as entered into with the Local Highway Authority to secure necessary works to the public highway.

Reason: To ensure adequate access is provided to the development in a timely manner and in the interests of highway safety and sustainable transport provision further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

18. Bus Stop Infrastructure

All reserved matters applications for Layout and Landscaping shall include proposals for removal of the existing bus stop shelter on Waddeton Road and installation of a replacement bus stop with shelter and seating to a design to be agreed with the Local Planning Authority.

All reserved matters applications for Layout and Landscaping shall also include a review of the location of the bus stop on the north side of White Rock Way (east/south-bound services). The review shall include identification of the location for provision of a new bus stop in the vicinity with shelter and seating to a location and design to be agreed with the Local Planning Authority.

The development shall not be occupied until the approved measures have been implemented in full and made available for public use and shall be permanently managed and maintained at all times thereafter in accordance with the approved details.

Reason: To ensure adequate access is provided to the development and for developments in the area in a timely manner in the interests of highway safety further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the site accesses to the local road and path network are constructed in a timely manner from the outset of development.

19. Flood Risk Drainage – in accordance with the submitted and approved FRA.

As part of any reserved matters application a detailed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall demonstrate that the risk of flooding to the site, to adjacent land and to land further down-stream would not be increased and shall be in line with the design parameters outlined within the submitted and approved Flood Risk Assessment, (Clarkbond, Ref No E05706-0001DS P03 dated 31.08.2023).

No development (including ground works) for any phase of the development shall take place on the site until a detailed surface water drainage scheme for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development and shall be subsequently maintained in working order thereafter.

Reason: To ensure that there are no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF. This needs to be a pre-commencement condition to ensure that the impacts of construction on flood risk and drainage are mitigated from the outset of development.

20. Affordable Housing

As part of any application for reserved matters relating to site layout and scale of development, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority. The submitted details shall include information about the siting, size, and tenure type of the affordable units and of the adaptable units. The development shall be undertaken in accordance with the approved details.

Reason: In accordance with Policy H2 of the Torbay Local Plan 2012-2030.

21. Energy – Low Carbon

A detailed energy and sustainability statement shall be submitted with each reserved matters application pertaining to layout, scale and appearance. 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 respective part of the development and retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development and in accordance with Policy PNP1 of the Paignton Neighbourhood Plan and Policy SS14 of the Torbay Local Plan 2012-2030.

22. Acoustic Report – fencing, wall construction, windows

As part of any reserved matters application a detailed acoustic assessment and mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority.

The assessment shall be undertaken in accordance with BS 8233:2014 and WHO 1999. The mitigation scheme shall be in line with the parameters outlined within the

submitted Environmental Noise Assessment (Acoustic Consultants Ltd, Reference 10032-SL B Noise Assessment, dated 21.April 2023)) and shall include consideration of building fabrics, fenestration and ventilation. The mitigation scheme shall demonstrate compliance with the guidance in BS8233:2014 with regards to noise levels to internal spaces and external amenity areas.

The approved scheme shall be implemented in full and tested and provided in full working order prior to the first occupation of the development and shall be maintained in that condition thereafter.

Reason: In the interests of residential amenity for future occupiers of the development in accordance with Policy DE3 of the Torbay Local Plan and advice contained within the NPPF.

23. Contamination

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure there is no risk of land contamination in accordance with Policy ER3 of the Torbay Local Plan and advice contained within the NPPF.

24. Parking

No dwelling or commercial unit shall be occupied until its allocated car parking space(s) and access thereto, as shown in the associated approved details of reserved matters, have been provided and made available for use. All other car parking spaces and access thereto, including any visitors parking, as shown in the associated approved details of reserved matters, shall be provided and made freely available for use prior to the occupation of the development that they serve. The parking space(s) and access thereto shall be kept permanently available for parking and access purposes thereafter.

Reason: In accordance with highway safety and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

25. ECVP

No dwelling shall be occupied until electric vehicle charging point/s to serve that dwelling has been installed and made fully available in working condition and in accordance with details which shall firstly have been submitted to the Local Planning Authority with, and approved under, the reserved matters application for layout and/or appearance for the associated phase of development.

Reason: In the interests of carbon reduction and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

26. RMs to include details of cycle and bin stores

The details of reserved matters shall include details of cycle parking for the dwellings and commercial space hereby permitted. The cycle parking shall be in accordance with Policy TA3 and Appendix F of the Torbay Local Plan 2012-30. All cycle parking provision be secure and weatherproof. Cycle storage for flatted apartments shall be provided within the building/s to which it relates. The relevant cycle parking facilities

shall be provided as approved prior to the first occupation or first use of the dwelling/commercial space to which it relates and thereafter retained as such.

Reason: In the interests of reduction of carbon fuel usage, residential amenity and to reduce opportunities for crime in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

27. Bin Stores and Waste Management

The details of reserved matters shall include details of bin storage/waste recycling facilities for the dwellings and commercial space hereby permitted together with Waste Management and Collection Plans for units not served by adopted roads. The relevant storage/waste recycling and facilities and collection points shall be provided as approved prior to the first occupation or first use of the dwelling/commercial space to which it relates and thereafter retained as such.

Reason: In the interests of residential amenity and functional operation of the site in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

01. 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.

OR

If Members of Planning Committee are minded to refuse the application against Officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.

Relevant Policies

Development Plan Relevant Policies

Torbay Local Plan

SS1 - Growth Strategy for a prosperous Torbay
SS2, Future Growth Areas
SS3 - Presumption in favour of sustainable development
SS8 - Natural Environment
SS9 - Green Infrastructure
SS11 – Sustainable Communities
SS12 – Housing
SS13 – Five-year housing land supply
SS14 - Low carbon development and climate change
SDP3 - Paignton North and Western Area
H1 – Applications for new homes
H2 – Affordable Housing
TA1 - Transport and accessibility
TA2 - Development access
TA3 – Parking requirements
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development Amenity

DE4 - Building heights
NC1 - Biodiversity and geodiversity
ER1 - Flood Risk
ER2 - Water Management
ES1 - Energy
W1 - Waste management facilities
W2 – Waste audit for major development and significant waste-generating developments

Paignton Neighbourhood Plan

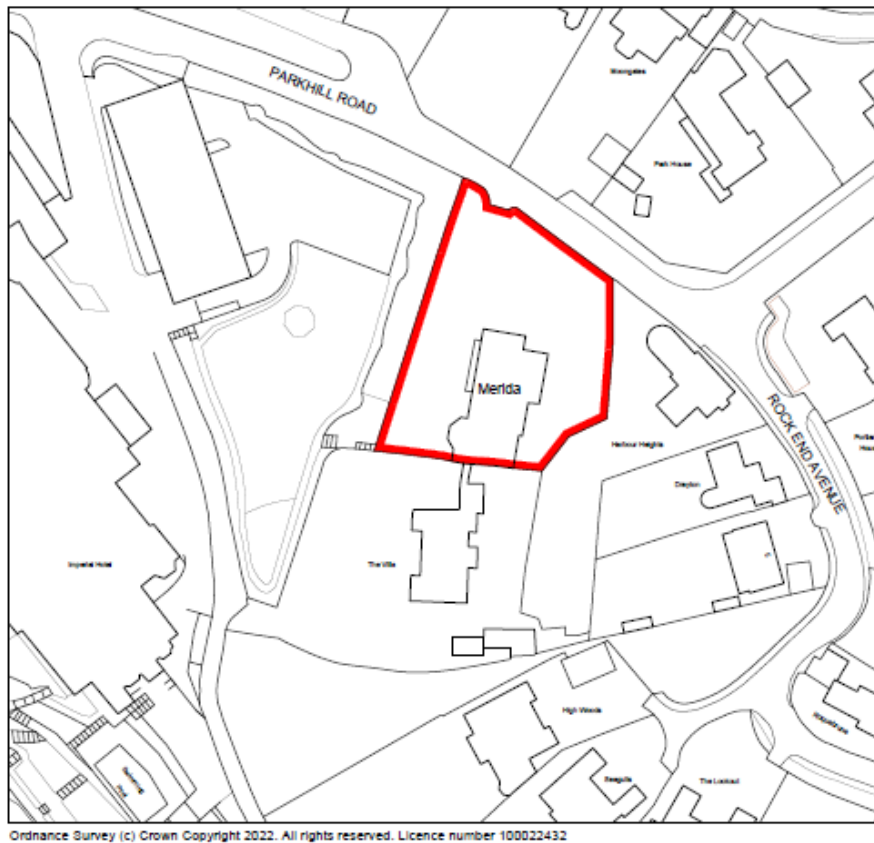
PNP1 – Area wide
PNP1(c) – Design Principles
PNP1(d) – Residential Development
PNP1 (f) – Towards a Sustainable Low-Carbon, Energy-Efficient Economy
PNP1(g) – Designing out Crime
PNP1(h) – Sustainable Transport
PNP1(i) - Surface Water
PNP21 – White Rock and nearby areas
PNP22 – Western Corridor

Supplementary Planning Documents

Planning Contributions and Affordable Housing SPD, December 2022.

TORBAY COUNCIL

Application Site Address	Merida Parkhill Road Torquay TQ1 2DQ
Proposal	Maintenance, repair, refurbishment and alteration works.
Application Number	P/2023/0330
Applicant/ Agent	Mr & Mrs Wiggins / Croft Surveyors
Date Application Valid	11/05/2023
Decision Due date	27/06/2023
Extension of Time Date	17/11/2023
Recommendation	<p>Approval: Subject to:</p> <p>The conditions outlined, with final wording delegated to the Divisional Director - Planning, Housing & Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director - Planning, Housing & Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Following the SRM procedure, and given the number of objections received, Councillor Bye and the Chair of the Planning Committee would like application to be discussed at Committee.
Planning Case Officer	Ross Wise



Site Details

The site comprises a large Grade II listed Victorian building, which has been historically altered and extended. The site is accessed from Parkhill Road and the curtilage area includes a garden area, primarily to the West of the building.

The site is located within the Lincombes Conservation Area and adjacent to the Torquay Harbour Conservation Area as designated by the Torbay Local Plan.

Description of Development

This application for Listed Building Consent seeks permission for:

- The retention of works previously carried out by the existing and previous owners of the building.
- Rectification works, that after receiving pre-application advice are to be undertaken in response to concerns raised.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the

development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

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

Material Considerations

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

Relevant Planning History

P/1999/0584/CA. Demolition Of Existing Greenhouse And Garden Sheds. Withdrawn.

P/1999/0587/OA. Erection Of Detached House (In Outline) (As Revised By Plans Received 18/5/99). Refused 29.06.1999.

P/1999/0588/OA. Erection Of Detached House (In Outline) (As Amplified By Plans Received 14th July, 1999). Approved 05.08.1999.

P/1999/0609/OA. Erection Of Detached House (In Outline) (As Revised By Plans Dated 18th May 1999). Refused 23.08.1999.

P/1999/1432/OA. Erection Of Detached House (In Outline). Refused 08.12.1999.

P/1999/1501/LB. Demolition Of Existing Greenhouses And Garden Sheds. Approved 16.12.1999.

P/1999/1784/LB. Erection Of Sign Notifying Development Of Site. Approved 14.01.2000.

P/2001/0590/RM. Erection Of Detached House And Garage With Vehicular And Pedestrian Access (As Revised By Letter And Plan Received 13/7/01). Approved 26.07.2001.

P/2022/0066/HA. Formation of detached single storey garage. (Please see accompanying application P/2022/0067). Refused 17.01.2023.

P/2022/0067/LB. Formation of detached single storey garage. (Please see accompanying application P/2022/0066). CLOSED 29 JUNE 2022 SEE P/2022/0066.

DE/2022/0093/DE. Retrospective consent for works to a listed building. Split decision.

Summary of Consultation Responses

{b Torquay Neighbourhood Plan Forum:} Requests that the application should be refused. Sets a precedent.

Summary of Representations

34 comments have been received, of which 31 objections and 2 letters of support were received.

Concerns were made regarding:

- Sets precedent.
- Works are illegal.
- Disregard for planning law.
- No planning consent for apartments at point of sale.
- Damage the structure of the building.
- Contravention of Local Plan Policies SS10, TH8 and TH10.
- Basement rooms with no windows would endanger occupants.
- Works not in keeping with the character of the building.

Support was received for:

- Internal works.
- Electrical works undertaken comply with the latest regulations.
- Owners have done a good job maintaining and restoring the building.
- Work has been done to a high standard.
- The building enhances the area and increases the value of other properties.

Planning Officer Assessment

Key Issues/Material Considerations

Impact on Heritage Assets

Section 66 of the 1990 Act sets out the general duty as respects listed buildings, which requires Local Authorities 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.

Paragraph 199 of the NPPF states 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.

Policy SS10 states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make up Torbay's built

and natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay. Policy HE1 of the Local Plan states that development proposals should have special regard to the desirability of preserving any listed buildings and its setting, or any features of special architectural or historic interest which they possess. Policy TH10 of the TNP states 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.

Merida is a Grade II Listed building located within the Lincombes Conservation Area lies adjacent to the Torquay Harbour Conservation Area. The site, Merida and the identified Conservation Areas are designated heritage assets. Whilst there is currently no published appraisal for the Lincombes Conservation Area, the accompanying mapping is available, and the site is clearly identified within it.

Conservation can be described as the process of managing change to a significant place in its setting in ways that will best sustain its heritage values, while recognising opportunities to reveal or reinforce those values for present and future generations.

Generally, heritage values are arranged in four groups, which may be attached to places. These are:

- Evidential value: the potential of a place to yield evidence about past human activity.
- Historical value: the ways in which past people, events and aspects of life can be connected through a place to the present – it tends to be illustrative or associative.
- Aesthetic value: the ways in which people draw sensory and intellectual stimulation from a place.
- Communal value: the meanings of a place for the people who relate to it, or for whom it figures in their collective experience or memory.

The significance of Merida is mainly comprised of its historic and aesthetic values. The building has retained significant exterior and interior detailing and this aesthetic value is ultimately the main contributor to the building's overall heritage significance. The building's aesthetic value has been impacted as a result of the extensions and alterations that have occurred since its original construction. Any evidential and communal value is considered to be low. Overall, the building is considered to be of medium significance.

The contribution of setting to the building's significance has been reduced by demolition and development of neighbouring sites, however the building remains in a prominent location with landscaping, mature trees and grounds that continue to wrap around the building. It is acknowledged that this has been reduced over time and the area to the North of the building has now been given over to a large, gravelled forecourt for parking.

The building benefits from surviving significant original detailing internally and externally, although this has been impacted as a result of the extensions and alterations that have occurred since its original construction.

It is evident from the comments made by a number of objectors that local residents and other previously interested parties at the time of sale of the property in 2020, that there was in fact knowledge of works to the building that did not benefit from either planning permission or listed building consent.

The overarching aim of the proposal is to regularise works to the building that have been carried out without listed building consent. Where works are not proposed to be retained in their existing form, their alteration is proposed in response to advice provided in pre-application discussions (reference no. DE/2022/0093).

It is understood and as put forward by the applicant that a number of works were undertaken by previous owners of Merida and that there is limited information available to prove definitively when these works were carried out. In this regard the applicant states that the following works were carried out prior to their purchase of Merida.

Retrospective permission sought for:

- Internal layout changes in the cellar and at ground and first floors.
- Works required to create two separate flats within the basement level.
- Formation of internal area below crown roof.
- Replacement of internal doors.
- Replacement of internal floor coverings.
- Replacement of skirting boards in isolated locations to match historic examples.
- Replacement radiators.
- Repair of external plaster work.
- Painting of the external plaster work.
- Repair and redecoration of existing shutters.
- Redecoration of timber windows.
- Replacement rainwater goods.
- Replacement fascias and soffits.
- Replacement roof light.
- Replacement of satellite dish.
- Replacement of garden gate.
- Removal of old clay external surface water drainage pipes.
- Boundary wall repairs.
- Re-roofing Works.
- Structural Repairs/ Replacement of Timbers.
- Extension of crown roof adjacent to canted bay extension.

New works proposed:

- Provision of new shutters to match existing where removed and no-longer present.
- Relocate CCTV cameras to more sympathetic locations.
- Alter the finish of external lighting installations so as to reduce visual impact.
- Removal of new canopy over entrance to basement flat.

- Replacing uPVC elements of external soil vent pipes with cast iron.
- New roof lights.
- Replacing uPVC windows and doors with new timber windows and doors.
- Erection of new boundary fence.
- Construction of new external patio area.
- Re-instatement of dormer window (south)

The proposal can largely be broken down into three broad categories relative to the impacts they would have on the significance of the building within the established categories of enhancements/improvements, neutral changes, and harmful changes summarised in the table below.

For the avoidance of doubt, the assessment of the impacts of the proposed works is irrespective of the nature of some of the works being retrospective. Any works already carried out by the current owners have been done so at the owner's risk.

Element of Proposed Works	Heritage Value	Overall Impact	Harm/ Enhancement
Repair of external plaster work	High - Likely original C19th fabric.	Low	Enhancement
Painting of the external plasterwork	Medium - External lime render.	Low	Enhancement
Repair and decoration of existing shutters	High - Original C19th fabric present consistently on the elevations of the 1840s element of the building.	Low	Enhancement
Replacement fascias and soffits	Medium - Mix of original C19th and modern inappropriate fabric.	Low	Enhancement
Replacement rainwater goods	Medium - Mix of uPVC and original cast iron	Low	Enhancement
Replacement of garden gate	No heritage value	Low	Neutral
Relocation of CCTV cameras	No heritage value	Low	Neutral
Replacement of uPVC windows and doors with timber alternatives	No heritage value - Modern construction/modifications	Moderate	Neutral
Proposed external lighting	No heritage value	Low	Neutral
Removal of entrance canopy	Low - C20th lean-to porch	Low	Enhancement

Formation of 2 flats at basement level	Medium - Likely C19th fabric with later additions.	Low	Neutral
Replacement of flat roof coverings	Low - Replacement of the non-original flat roof covering following the former covering coming to the end of its functional lifespan.	Low	Neutral
Rooms beneath crown-roof (FF)	Low - C20 fabric	Low	Neutral
Stud partition in basement level (cellar)	Low - Cellar of later C19/20 th canted bay extension	Low	Neutral
Internal layout changes at GF and FF level	Medium - Original C19/later partitions	Moderate	Neutral
Replacement of internal floor coverings	No heritage value - Former inappropriate laminate finishes	Moderate	Neutral
Structural repairs/replacement of timbers	High - Mix of C19th and C20th fabric.	Low	Neutral
Replacement internal doors	Medium	Low	Neutral
Replacement of skirting boards	Low - C20th fabric	Low	Enhancement
Works to boundary wall	High - Original C19th masonry	Low	Neutral
New and replacement roof lights	Low - C20th and new fabric	Moderate	Harmful
Re-slating the roof	Medium - C20th	Moderate	Neutral
Raise in the height of the flat roof by 100mm.	Medium - C20th	Moderate	Harmful
Alteration of dormer window	Medium - Likely C20th and original	Low	Harmful
Extension of flat roof adjacent towards canted bay extension	High - Loss of section of original fabric/form	Low	Harmful

Whilst a large number of works are included within the application for listed building consent, it is considered that listed building consent is not required for a number of repairs that have been and those that are intended to be carried out. This is due to the applicant demonstrating that these repair works have and will be carried out on a

like-for-like basis with regards to the materials used, quality of execution and finish. Listed building consent is required for works to alter or extend a listed building in a way that would affect its character or appearance as a building of special architectural or historic interest. Whilst permission may not be required, the applicant has included them with the proposal nonetheless. In this regard, listed building consent is not considered to be required for the following:

- Repair of external plaster.
- Painting of the external plaster work
- Repair and redecoration of existing shutters.
- Redecoration of timber windows.
- Installation of new radiators.

Additionally, listed building consent is not required for:

- Replacement garden gate.
- Construction of new external patio area.
- Erection of new boundary fence.
- Removal of external clay drainage pipes

With regards to internal architectural detail and features, when the building was first listed in 1975, an internal inspection of this property was not carried out. As a result, internal features were not included within the original listed entry. With very limited planning history available for this address, there is also little detailed information available of any previous works carried out, or any previous layout of the building. However, general assumptions can be made of the historic organisation of the building based on position of original windows, load bearing walls, orientation of joists and location of fireplaces/chimney breasts.

Reviewing the table above it is clear that many of the works proposed would have an overall neutral impact on the significance of the building. The works that would have a neutral impact are considered to preserve the significance of the building.

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.

Largely the works that have been considered to have a neutral impact on the building and its significance (see table above) would either be to non-original or fabric of little/no significance, or they would be minor in nature such that their impact would be negligible. Whilst the replacement windows would enhance the existing appearance of the building, they integrate themselves into the proposal as actions required to address unauthorised works to the building and are therefore given no weight in the overall balance. This principle is consistent across the majority of the rectification works. Where this is not the case, further evaluation is provided below.

Works to create flats within the basement.

The division of the property, creating flats/apartments within the basement level is likely to have impacted upon the original internal layout and vertical circulation of the

building as it is not currently clear where the ground floor and basement levels would have originally been connected, as the connecting stair is no longer in place.

It is also not known when the works to create the flats within the basement originally occurred as there appears to be a lack of any demonstrable evidence to definitively identify if this occurred prior to the building's first listing in 1975, or at what point after. Reviewing council tax records, Apartment 1 and Apartment 2 Merida appear to have been registered addresses from the 1st of April 2019. However, this does not indicate when the works were originally carried out. The information provided within the submitted Heritage, Design and Access Statement suggests the works may have been carried out between 2011-2013 and completed in 2016 as satellite imagery may indicate other refurbishment works are likely to have been carried out at this time.

It is also not known to what extent any works were or were not carried out and if they involved any significant alteration or loss of historic fabric that contributed towards the overall significance of the building. Given the lack of planning history for this building, there is an absence of a record of any previously existing layouts or information to identify the former presence of any architectural features of interest.

With regards to the comments made relating to the re-instatement of any features in areas where they may have previously been lost, it is not good practice to "re-instate" or install such details without sufficient evidence of the former detailing or instances of its siting in such locations. With particular reference to the basement level, it is not common for these historic service areas to contain such detailing or embellishments.

Considering the information available, the creation of 2 apartments within the basement level is considered to have a neutral impact on the significance of the building when compared to that when originally listed in 1975. The applicants are aware that this matter needs to be regularised.

Alterations of internal openings.

The proposed internal alterations, relocating a number of openings for doors, are not considered to demonstrably alter the plan form of the building, which forms part of its architectural value. The rationale here is that on the ground floor, existing doors within the spaces created in the bedrooms 1, 2 and 3 on the Eastern side of the building are not considered to be elements of the original plan form of the building. They are likely to be partitions installed when the building was in use for holiday/guest accommodation, creating rooms with private bathrooms. The original plan form is much simpler and can largely be understood by the presence of historic fireplaces, although now these are mostly concealed, they are expressed at roof level with original stacks.

In addition to the detail initially provided as part of the application, further detail has been requested of the elements of the proposal that have been considered to be harmful, namely the new/replacement rooflights and the raise in the height of the flat roof over the circa 1840s element of the building.

Rooflights

Further detail of the rooflights has subsequently been provided and clearly identifies the position of the rooflights within the composition of the roof, which now definitively establishes their prominence above the plane of the roof. As a notable change in the external appearance of the building, this information was key to establish if the protrusion above the plane of the roof was excessive.

Additional and replacement rooflights to crown roof are an eye-catching addition to the roofscape, which is legible from outside of the site boundary due to the local topography. Whilst the ability for the public to view or experience elements of the proposal does not define its impact on the building or its setting, the visibility of the roof-scape of the building increases the required sensitivity in which alterations in this area must be carried out.

The total number additional rooflights is proposed to remain at a total of 9. This would be in addition to the replacement of 1 previously existing rooflight, totalling 10 rooflights within the roofscape of the building. It is noted that the applicant has proposed to reduce the height of the protrusions from the roofscape by 100mm in order to mitigate the impact of their prominence. However, this amendment is proposed to the 4 additional rooflights within the crown roof only, the remaining rooflights are proposed to remain as existing with a larger protrusion from the plane of the roof of approximately 250mm.

Rooflights over the 1930s/40s and 1890s extensions are considered to have a limited impact due to their position and siting within a later and less significance addition of the original building. Any impact they would have is considered to be as part of a wider cumulatively effect, and in conjunction with the sharp increase in the total number of rooflights proposed within the roofscape.

Whilst the protrusion from the plane of the roof would be reduced, the quantity of rooflights proposed for retention is considered to further undermine the traditional character and appearance of the building. It is acknowledged that the wider roofscape has been significantly affected by previous alterations, the quantity of rooflights proposed is nonetheless considered to result in a minor level of less than substantial harm.

Crown roof alterations

In addition to the detail requested above relating to rooflights, greater certainty of any resulting increase in the height of the crown/flat roof above the principal 1840s element of the building was requested in response to concerns raised by an objector.

The applicant has stated that there has been an increase of approximately 100mm in the thickness construction of the crown roof over the 1840s section of the building. The former flat roof deck construction has been stated as being constructed using undersized timbers which were rotten in a number of places. The increase in the height comes as a result of an increase in the size of structural timbers within the flat roof, in addition to marginal increases from creating falls for drainage purposes. This area of the roof is highly sensitive as aforementioned due to the wider visibility of this area of the building. In this instance the nominal increase in the height of the crown roof by 100mm is considered to result in a minor level of less than substantial harm.

During the course of the application it became apparent that works beyond those applied for had been carried out. The applicant has subsequently requested to include them within the proposal and, at the time of writing this report, is producing drawings to reflect these works. In this regard, the additional works are:

- The alteration of a section of pitched roof adjacent to the canted bay extension.
- Adaption of dormer window to form a double door.

Both of the works identified above are shown within the table shown on pages 6-8 of this report.

The alteration of section of pitched roof adjacent to canted bay extension has led to the alteration and loss of original/historic fabric from within the roofscape.

The applicants report that the primary reason for the removal of this section of roof is due to the valley gutter detail that it created at the junction with the canted bay extension, which was one of the primary sources of damp ingress within the property. It is reported that rainwater would run down the pitched section of roof, soaking into the external wall of the canted bay extension and penetrating down to the ceiling/ floor below.

The issue highlighted by the applicant is as a result of the presence of the canted bay extension itself, and would not have been apparent had it not been constructed shortly after the construction of the original building. The extension of the flat roof in this area can therefore be seen to overcome a defect within the previously existing arrangement of the roofscape, in a manner consistent with the external appearance of the building as a whole. When considering any potential alternative detailing to overcome the issues relating to water ingress and penetration in this area, these would likely have appeared clumsy and deleterious.

The alteration and loss of historic fabric in this location has resulted in a minor level of less than substantial harm.

The alteration of a previously existing inset dormer window has been replaced with a set of timber doors. This has resulted in a minor loss of historic fabric, both below the cill level and in the creation of a larger opening.

The applicant has commented that the previously existing feature leaked around the abutments and the section of flat roof below the former cill. Doors were installed to remove the section of roof, whilst also providing access to maintain the roofscape.

Not all loss of fabric results in harm to the overall significance of a heritage asset and this is the case in this instance. Whilst the fabric formerly surrounding the window is likely to have been original, its value and contribution would have been limited.

In addition to other works of re-instatement, following concerns raised with this element of the application, the applicant has provided a revised detail to remove the existing set of timber doors and re-instate a small inset window in this location to match the existing inset dormer window as seen in the North elevation.

As indicated above, the applicant has provided commentary within the submitted heritage, design and access statement to justify their approach to the works that are considered to be harmful. In this regard, the works were required to make the building weatherproof, structurally sound and to provide natural light to rooms within the crown roof. In this instance, the works to the crown roof are considered to be justified.

Again, reviewing the table summarising the impact of the proposed works, those that have been identified as resulting in varying degrees of enhancement would generally improve the visual quality and condition of the building both internally and externally.

Many of the original internal architectural features including ceilings, skirting boards, architrave and cornicing would be conserved where they exist. Where poor quality, inappropriate examples exist, they are to be replaced with suitable installed to match original examples.

External works to repair and redecorate the building, replacing and re-instating shutters, soffits and fascia would be done so with appropriate materials, craftsmanship and finishing. Should permission be granted, conditions are recommended to ensure that the materials and detailing of the opening matches other original examples within the building where they exist and that works of making good are carried out to an acceptable standard.

The works described above, would both preserve and enhance the external character and quality of the building, resulting in an overall minor enhancement, particularly to the buildings aesthetic value.

Para 200 of the NPPF states:

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.

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

The applicant sets out their justification of their approach to the works that have been considered to be harmful, stating that they were necessary to prevent a risk of total failure of the roof structure and to meet acceptable construction standards. The assessment provided suggests that the works to the crown-roof have not led to the loss of historic fabric as the previous structure was a non-original element of the building. With regards to the additional rooflights, the applicant also states that these would be located within non-original element of the building, not resulting in the loss of any significant historic fabric.

When considering the proposal as a whole, the cumulative minor heritage gains outlined in this report are considered to balance the identified harm that would be caused works to raise the crown roof and install additional rooflights. On balance, the positive aspects of the proposal are considered to reduce the level of harm, resulting a negligible/neutral impact on the significance of the building.

In this regard the proposal is considered to result in a change in evidential, architectural, historic, artistic, aesthetic or communal value or setting, of the heritage asset such that the change in significance of the resource is barely perceptible.

To conclude, the repair and maintenance aspects of the proposal in addition to the works to regularise historic works that have been carried out at the property are welcomed and have improved the general condition of the building.

The crown roof is a non-original element of the building, and the applicant has sought to replace its covering due to it coming to the end of its functional life. In doing so, they have also replaced failing and substandard deteriorated structural fabric, which is also not original and has no heritage significance. To prevent the removal or alteration of historic fabric within the roof, the height of the crown roof has increased to accommodate deeper sections of timber. This increase, in combination with the additional rooflights within the crown roof is considered to result a slight diminishment of the building's aesthetic value and minor harm to the overall heritage significance of the building.

Where further clarification was required of certain elements of the works, the applicant has provided sufficient information and justification for the works that have been considered to be harmful. These works are considered to be justified.

In balancing the aspects of proposal, and their impact on the heritage values of the building, the proposal is considered to result in a negligible impact on the significance of the building. For this reason, overriding public benefits are not considered to be necessary.

Subject to the conditions met, the proposal is considered to preserve the historic character and appearance of the Grade II listed building. As such, the proposal is considered to acceptable with regards to Policies SS10 and HE1 of the Local Plan, Policy TH10 of the TNP and the guidance contained within the NPPF.

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.

Ecology

A further consideration with regards to this application is made in relation to an appeal decision (APP/H1705/Y/18/3204144). The Inspector within the appeal referenced, determined that it was appropriate and the duty of the competent authority to consider the impacts on protected species in the determination of Listed Building Consent. Due to the timing and the retrospective nature of the application an ecological appraisal was requested.

Policy NC1 of the Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. Policy TE5 of the TNP requires development on unallocated sites that would have an impact on a protected species to provide 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 accompanied by a preliminary ecological appraisal, primarily in relation to bats and nesting birds. The assessment has been carried out by M Pearmain and C Carter Paul of Brookside Ecology. A site inspection was carried out on the 27th February 2023. No further surveys were recommended.

The assessment identified that the building offers negligible suitability for bat roosting as the building was well sealed, without obvious access for wildlife. No notable evidence of protected species was present at the time of the survey. Although, as acknowledged by the ecologists, any such signs are likely to have been lost during the course of the renovation works undertaken.

The assessment offers enhancement measures and as per the recommendations of the ecologist, should planning permission be granted these recommendations will be secured by condition. Best practice guidelines are also included.

Subject to the conditions being met, the proposal is considered acceptable with regards to Policy NC1 of the Local Plan and Policy TE5 of the TNP.

Statement on Human Rights and Equalities Issues

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

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

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. Each of which shall be discussed in turn:

The Economic Role

There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

In respect of the social element of sustainable development the balance is in favour of the development.

The Environmental role

Sustaining heritage values is likely to contribute to environmental sustainability, not least because much of the historic environment was designed for a comparatively low-energy economy. Many traditional buildings and building materials are durable, and perform well in terms of the energy needed to make and use them. Their removal and replacement would require a major reinvestment of energy and resources.

The proposal continues to provide a long-term use for a building that has embodied energy within its fabric and the sustainable central location provides lifestyle opportunity that may be less reliant on cars and reduces need for travel. In respect of the environmental element of sustainable development the balance is in favour of the development.

Sustainability Conclusion

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

Local Finance Considerations

Affordable Housing:

Not applicable.

CIL:

The CIL liability for this development is Nil.

S106: Site Acceptability Matters: None. Not applicable to Listed Building Consent.

EIA/HRA

EIA:

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

HRA: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites.

Planning Balance

Largely the proposal now would be restorative, or where works would be undertaken, they would be to less-sensitive elements of the building and its fabric, minimising and potential negative impact of the proposal on heritage assets. Where harm has been identified, the applicant has provided sufficient justification.

In this instance as the proposal would deliver demonstrable and overriding heritage benefits and the balance weighs in favour of the proposal.

Conclusions and Reasons for Decision

The various works of repair and alterations are acceptable from a policy perspective. Subject to appropriate conditions the proposal is recommended for approval.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations for the reasons stated within this report.

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

Officer Recommendation

Approval: Subject to the conditions as outlined.

Conditions

1. Flat roofs

For the avoidance of doubt, the flat roofs of the building shall only be used for maintenance purposes, and shall at no time be used for recreational purposes.

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

2. Making good.

All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in accordance with Policies SS10 and HE1 of the Adopted Torbay Local Plan 2012-2030.

3. Schedule of works

Within 6 months of the grant of consent, a schedule of the rectification works, including a timetable for the works to be carried out, shall have been submitted to

and approved in writing by the Local Planning Authority. The works shall take place in strict accordance with the approved schedule and in accordance with the approved timetable of works, unless otherwise agreed in writing by the Local Planning Authority.

Before the relevant works listed below commence, details in respect of the following shall be approved in writing by the Local Planning Authority. The work shall be carried out in full in accordance with such approved details which shall include:

- detailed drawings at scale;
- samples of external facing materials and internal surface finishes;
- schedule of works including a timetable for the works to be carried out;
- a detailed method statement.

In this regard the relevant works are:

- Roof-lights within the crown roof
- Alteration of dormer window (south)
- Removal of unauthorised UPVC windows
- Installation of timber windows.
- Provision of new shutters.
- Relocation of cctv
- Alterations of external lighting
- Removal of entrance canopy

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. Ecology enhancements

The development hereby approved shall be carried out in accordance with the recommended enhancement measures set out in the approved ecology report referenced: P-2023-0330-3, received: 13.04.2023

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

In accordance with the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed conditions to enable the grant of consent.

Relevant Policies

Development Plan Relevant Policies

SS10 – Conservation and the Historic Environment
HE1 – Listed Buildings
NC1 – Biodiversity and Geodiversity

TH10 – Protection of the Historic Built Environment