

Friday, 14 June 2024

PLANNING COMMITTEE

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

Monday, 24 June 2024

commencing at **5.30 pm**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

The Membership of the Planning Committee will be updated following Adjourned Annual Council on 20 June 2024

A Healthy, Happy and Prosperous Torbay

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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 29 April 2024.

(Pages 5 - 9)

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. **Eastern Esplanade and Preston Promenade, Paignton (P/2023/0905)**

Installation of coastal defences and associated works.

(Pages 10 - 55)

6. **Seabury Hotel, 11 Manor Road, Torquay (P/2023/0721)**

Demolition of existing hotel building and erection of 14 residential apartments, and associated parking and landscaping.

(Pages 56 - 103)

7. **Brunel Manor, Teignmouth Road, Torquay (P/2023/0606)** (Pages 104 - 182)
Redevelopment and conversion of land at Brunel Manor including the conversion of Brunel Manor to provide 17 dwellings, the retention of Brunel Court and Brunel Lodge to provide 9 dwellings and the construction of 9 new dwellings, with associated parking, access and landscaping (Please see accompanying application P/2023/0616).
8. **Brunel Manor, Teignmouth Road, Torquay (P/2023/0616)** (Pages 183 - 207)
Application for listed building consent for the conversion of Brunel Manor to provide 17 dwellings. Includes the redevelopment and conversion of land at Brunel Manor, the retention of Brunel Court and Brunel Lodge to provide 9 dwellings and the construction of 9 new dwellings, with associated parking, access and landscaping (Please see accompanying application P/2023/0606).

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, 19 June 2024. 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

29 April 2024

-: Present :-

Councillor Maddison (Chairwoman)

Councillors Billings (Vice-Chair), Mandy Darling, Fox, Pentney, Tolchard, Virdee, Brook
and Strang

(Also in attendance: Councillors Fellows, Barbara Lewis, Chris Lewis, Spacagna,
David Thomas, Jacqueline Thomas and Tyerman)

52. Minutes

The minutes of the meeting of the Committee held on 2 April 2024 were confirmed as a correct record and signed by the Chairwoman.

53. Land to the Southwest of Copythorne Road, Brixham (P/2023/0480)

The Committee considered an application for outline planning for the erection of up to 77 dwellings, including affordable housing (35%), areas of open space (including public park), landscaping, biodiversity net gain and site infrastructure, with all matters reserved apart from access. The application was accompanied by an Environmental Statement. The application was a departure from the Development Plan.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mrs Jackie Stockman addressed the Committee against the application. Mr Andrew Rowe addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Tyerman addressed the Committee against the application.

At the meeting the Planning Officer advised, that since the report had been published one letter of support had been received based on the provision of additional housing and further comments from the Council's Strategic Planning Team had resulted in a slight amendment to the officer recommendation contained within the submitted report.

Resolved (unanimously):

That the application be refused for the following reasons:

1. Conflict with the Development Plan

The site lies within the South Devon National Landscape, is outside of the settlement boundary of Brixham and in the open countryside, is not within an identified Future Growth Area, and is not allocated for housing within the Torbay Local Plan or Brixham Peninsula Neighbourhood Plan. In the context of the site the development, which is a major housing scheme, is considered to be in significant and overriding conflict with the Development Plan and guidance contained within the NPPF regarding Valued Landscapes. In the absence of exceptional circumstances and a demonstration that the development is in the public interest, and in the absence of other material considerations that indicate that the development plan should not be followed, the development is considered contrary to Policies SS2, SS3, SS8, SDB1, SDB3, C1 and H1 of the Torbay Local Plan, Policies BH4, BH9, E1 and E2 of the Brixham Peninsula Neighbourhood Plan, and guidance contained within the NPPF, notably Paragraphs 11, 12, 14, 180, 182 and 183.

2. Impact on the South Devon National Landscape

The development, by reason of its major scale and expected form as a housing scheme, and its location within the South Devon National Landscape, would have a significant detrimental impact on the landscape character and scenic beauty of this part of the South Devon National Landscape, where the impact is not mitigated by exceptional circumstances and demonstrated it would be in the public interest. The proposal is therefore contrary to Policies SS2, SS3, SS8, SS11, SDB1, SDB3, DE1, C1, C4 and H1 of the Torbay Local Plan, Policies BH4, BH9, E1 and E2 of the Brixham Peninsula Neighbourhood Plan, and guidance contained within the NPPF, notably Paragraphs 11, 12, 14, 180, 182 and 183.

3. Lack of a Signed Section 106 Legal Agreement to secure obligations as identified

The proposal, in the absence of a signed S106 Legal Agreement, fails to secure the necessary mechanism to deliver site acceptability mitigation regarding ecology, acceptable levels of affordable housing, and sustainable development obligations regarding Public Open Space, Sport and Recreation, Sustainable Transport, Education, Lifelong Learning, Waste and Recycling, and Health contributions, together with the provisions for the maintenance of the public open space, play areas, public access routes, and transport plan monitoring obligations, contrary to Policies SS7, SS8, SS9, H2 of the Torbay Local Plan 2012-2030 and the adopted Planning Contribution and Affordable Housing SPD.

4. The proposal by nature of its scale and location would prejudge strategic decisions about the local need for housing in the Brixham peninsula, and the cost and scope for developing outside the designated area or meeting need in some other way, to a degree that would prejudice the outcome of the plan-making process. It thereby fails to meet the criteria set out in Paragraphs 50 and 183 of the NPPF.

(Note: Prior to consideration of the item in Minute 54, Councillor Billings declared a non-pecuniary interest as previous Vice Chair in relation to the neighbourhood plan which included an area relating to this application).

54. Land at Princess Gardens, off Torbay Road, Torquay (P/2024/0138)

The Committee considered an application for change of use of land for the temporary erection and operation of a 45m high observation wheel and ancillary development, for a one-year season (between the period of March to October 2024).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mr Rodney Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Mr Jon Pope addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillors Jackie Thomas, David Thomas and Chris Lewis addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published 8 letters of support had been received outlining that the observation wheel provided facilities, improved the tourism offer of Torbay, helped to provide jobs, that the benefits outweighed the harm and that previous applications had been considered acceptable. It would also provide money to improve the park and was a popular landmark feature.

Resolved (unanimously):

Approved subject to the following conditions:

1. Prior to the grant of planning permission, a Conservation Mitigation Obligation to the sum of £30,000 be secured through planning obligation, for pathway improvement works, and other works identified within the Princess Gardens Masterplan Update Report;
2. Time limit

The permission, allowing occupation of the site by the observation wheel and ancillary development, shall be for a temporary period only between the periods of March 2024 and October 2024 inclusive. The observation wheel and ancillary development shall be removed before 1st November 2024 and following removal the gardens shall be reinstated in accordance with details that shall have previously been submitted to and agreed in writing with the

Local Planning Authority. The agreed scheme of reinstatement shall be implemented in full within 10 days following the removal of the development.

Reason: The use of the site by the development is only acceptable on a short term basis and more lengthy occupation would be harmful to the setting of the listed buildings, to the character of the Registered Gardens and the wider Torquay Harbour Conservation Area contrary to Policies HE1 and SS10 of the Torbay Local Plan 2012-2030 and Policies TT2 and TE2 of the Torquay Neighbourhood Plan.

3. Hours

The observation wheel and the associated ancillary catering facilities shall only operate, and be lit, between the hours of 10.00 and 22.00 hours daily.

Reason: To ensure that disturbance to residents who overlook the site is minimised in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

4. Lighting

The development shall at all times accord with the approved lighting scheme. The development shall only be lit during the approved operational hours.

Reason: To ensure that disturbance to residents who overlook the site is minimised and to protect the wider visual character of the area, in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

5. Operational management plan (pre commencement)

Prior to the wheel arriving on site a traffic and operational management plan and details of the operational control during construction and dismantling, which shall include due consideration and information regarding the protection afforded adjacent trees during construction, operations and its removal, shall be submitted to and approved by the Local Planning Authority. The operation of moving the wheel onto and off the site shall accord with the approved details.

Reason: In order to protect the structural integrity of the site, in accordance with Policies C4, HE1 and SS10 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Torquay Neighbourhood Plan.

6. External storage

At all times there shall be no external storage, including waste storage (excluding reasonable customer-facing waste bins) within the site, ancillary to the development hereby approved.

Reason: To provide an acceptable form of development within the public setting of the Registered Park and Garden and Core Tourism Investment Area, in accordance with Policies DE1, DE3, T01, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

7. Means of enclosures

No additional means of enclosure other than those shown on the approved plans shall be erected in association with the development within the site.

Reason: To provide an acceptable form of development within the public setting of the Registered Park and Garden and Core Tourism Investment Area, in accordance with Policies DE1, DE3, T01, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

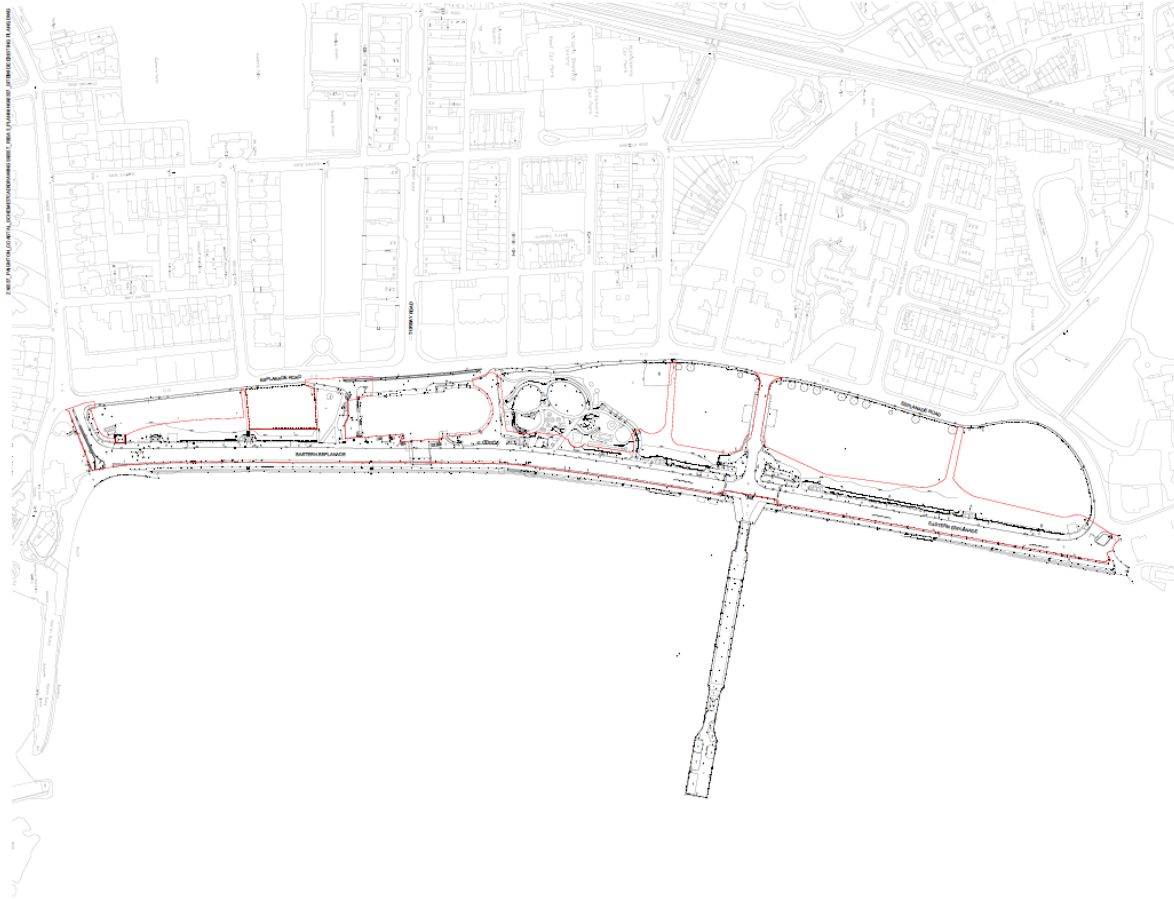
8. Final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
9. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency,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

Chairwoman

| | |
|---|--|
| Application Site Address | Eastern Esplanade & Preston Promenade Paignton |
| Proposal | Installation of coastal defences and associated works. |
| Application Number | P/2023/0905 |
| Applicant | Torbay Council |
| Agent | N/A |
| Date Application Valid | 22.12.2023 |
| Decision Due Date | 22.03.2023 |
| Extension of Time Date | 31.07.2024 |
| Recommendation | <p>Approval: Subject to;</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 | The application has been referred to Planning Committee due it being of a major nature. |
| Planning Case Officer | Emily Elliott |

Location Plan

See next page



LEGEND

- 1. The boundary of the proposed scheme
- 2. The boundary of the existing scheme
- 3. The boundary of the proposed scheme
- 4. The boundary of the existing scheme
- 5. The boundary of the proposed scheme
- 6. The boundary of the existing scheme
- 7. The boundary of the proposed scheme
- 8. The boundary of the existing scheme
- 9. The boundary of the proposed scheme
- 10. The boundary of the existing scheme

1. Red Boundary

LD&DESIGN

Pagans and Pipers Coastal Flood Protection Scheme

Phase 1 - 1/22
Pagans Site Location Plan

DATE: 15/12/22
BY: LD&DESIGN
DWG. NO: PPSCLSA-PL-22-01-1000

For information only - not to be used for construction
All dimensions are in millimetres unless otherwise stated
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Site Details

The application site comprises of two parcels of land, one on Paignton Sands and one on Preston Sands. The site encompasses the Paignton and Preston seafronts incorporating the areas of beach, existing coastal defences, promenades and access points from Esplanade Road and Marine Drive respectively. The application site, when combining both parcels of land, measures approximately 3.49 hectares.

The southern boundary of the application site that covers Paignton Sands is within Roundham and Paignton Harbour Conservation Area and the northern boundary of Paignton Sands is within 15 metres of Polsham Conservation Area. The application site is adjacent to several Grade II listed buildings including the Redcliffe Hotel, the Paignton Club, Parkfield and the Harbour Light Restaurant. The application site also includes a number of non-designated heritage assets including the existing pedestrian shelters, sea walls and Paignton Pier.

The Paignton Sands parcel of land is located within the Paignton Seafront, Harbourside and Green Coastal Park Core Tourism Investment Area as defined by Policy TO1 of the Torbay Local Plan. This parcel of land is also recognised within Policy PNP14 of the Neighbourhood Plan as part of the Paignton Neighbourhood Plan Core Tourism Investment Area. Both Paignton Sands and Preston Sands also located within the Paignton Town Centre Community Investment Area as defined by Policy SS11 of the Torbay Local Plan. Part of the Paignton Sands boundary is within the Paignton Town Centre boundary as defined by Policy TC1 of the Torbay Local Plan.

The application site and wider area is also a Local Green Space, as designated within the Paignton Neighbourhood Plan (Policy PNP1(b)). Both Paignton and Preston Sands are designated as Urban Landscape Protection Areas (Paignton Green North, Paignton Green South and Preston Green) by Policy C5 of the Torbay Local Plan.

The application site is located within Flood Zones 2 and 3 as designated by the Environment Agency and a critical drainage area. It also includes sections of the South West Coast Path and the National Cycle Network. The site is also situated directly adjacent to the Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ), and is approximately 1km away from Roundham Head Site of Special Scientific Interest (SSSI). The application is also within the Great Crested Newt consultation zone.

The land is owned by Torbay Council.

Description of Development

This application seeks planning permission the installation of coastal defences and associated works along Paignton Sands and Preston Sands.

The application involves the following for Paignton Sands:

- Primary flood defence line that will have a length of 790 metres and generally 15 metres width (this includes the embankment and terracing). The primary flood defence will be finished in fair faced precast concrete.

- 7no. steel flood defence gates.
- Resurfaced asphalt lower promenade to northern and southern sections.
- New upper promenade to northern and southern sections with 1no. new planting terrace, 2no. seating terraces and 5no. accessible slopes.
- New showers provided adjacent to existing toilet block.
- 4no. existing shelters relocated to top of flood defences embankments, ensuring ongoing protection from storm events and panoramic views. The shelters will be on ground approximately 1 metre higher.
- 2no. new bound gravel pedestrian footpaths provided over the Greens following historic path locations.
- New turning head for disabled and servicing vehicles.
- 8no. disabled spaces located at the centre of the seafront providing easy access to the mobility toilet, and nearby seafront amenities.
- 1no. loading space.
- 7no. informal pedestrian crossings to seafront access steps and slopes across the highway and 2no. across the cycleway.
- New GeoPark Café.
- 2 existing kiosks relocated behind the flood defences, kiosks on plinths relocated to promenade.
- Landward side of flood defences integrated with the existing Geoplay Park.
- 210 metres of new terraced seating along the promenade, as well as 24no. cube seats.
- 47no. new cycle parking spaces and facilities.
- New vehicular access adjacent to the Adventure Golf.
- Contra-flow cycleways retained to north and south Eastern Esplanade.
- 33no. existing lighting columns to be relocated and 5no. existing light columns to be retained in their existing location, to ensure it complies with existing best practice and to remove any dark spots.
- 21no. existing bins relocated and retention of existing CCTV columns.

The application involves the following for Preston Sands:

- Primary flood defence wall that will have a length of 373 metres and approximately 0.55 metres wide. The primary flood defence will be finished in locally sourced stone cladding.
- 17no. steel flood defence gates.
- Resurfaced asphalt lower promenade.
- Replaced upper promenade with stepped front edge, that will provide 2no. steps.
- 5no. accessible slopes to shelters and cafe.
- Spaces along the upper promenade provided for existing reconditioned shelters.
- Space provided for existing cafe building on upper promenade, along with cafe seating/ spill out space.
- Edge to Seaway Road/ Marine Parade entrance re-profiled to provide new cycleway link and accessible pedestrian slope.
- 3no. platform benches and approximately 70 metres of timber benches to lower promenade.
- Re-profiled access slope to beach, that will not affect the existing gradient.
- Existing duplicate walls and ramps removed to simplify amphitheatre space.

- 10no. new cycle parking spaces.
- 16no. existing lighting columns to be relocated and 5no. existing light columns to be retained in their existing location, to ensure it complies with existing best practice and to remove any dark spots.
- 5no. existing bins relocated, 1no. CCTV column refurbished, 8no. beach front lockers, 1no. paddle board storage facility.

Pre-Application Enquiry

An informal pre-application response was provided on 30.08.2023. The detailed response states that there would be no in-principle objections to the proposal. A copy of the written response has been submitted within this planning application.

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 2012-2030 ("The 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

No previous relevant planning history relating to the application site.

Summary of Representations

The application was advertised through neighbour notification letters, site notices and a newspaper advertisement. The application has also been re-advertised and re-consulted on more recently given the receipt of additional information in May 2024.

Seven letters of objections and two letters of support has been received. A summary of responses is set out below.

Concerns raised in the objections include:

- Loss of vehicular access
- Loss of parking
- Impact on traffic flow and safety
- Impact on local area
- Displacement/removal of beach huts
- Overdevelopment
- Lack of consultation

Comments raised in support include:

- Impact on local area
- It provides facilities
- Makes tourist facilities better

Summary of Consultation Responses

Torbay Council's Principal Policy and Project Planner (17.01.2024):

This application raises a number of technical issues particularly around flooding, impact on marine ecology, recreation, heritage, Global geopark etc. There is also likely to be a high level of public interest in the proposal.

This response sets out a high level planning policy comment, setting out the importance of providing coastal defence works. I note that an assessment of local and neighbourhood plan policies is set out in the Planning Statement submitted by Royal HaskoningDHV. Rob Palmer has also produced a detailed pre-application advice note. The scheme has been developed over several years and included pre-application consultation which contributed towards the LDA Design masterplan for the site Paignton and Preston coastal flood protection scheme - Torbay Council.

Much of Paignton to the east of the railway line is within Flood Zone 3 and subject to overtopping. It is vital to the regeneration of the town that coastal defences and resilience to chaotic climate events are provided. The existing Torbay Local Plan 2012-30 and Paignton Neighbourhood Plan place a great deal of emphasis on urban regeneration and maximising housing and other development opportunities within the existing built up area.

Policy SDP2 of the Local Plan identifies the need for resilience measures from sea level rise. Key regeneration sites within Paignton, proposed by SDP2 require the provision of long term flood defence measures. The nature of the required sea defence works has crystallised significantly since the Local Plan's adoption in 2015, so the proposal is not indicated on the Policies Map. However, Policies SS7, Infrastructure, SS14 Low carbon development and adaptation to climate change, SDP2 Paignton Town Centre and Seafront, C2 Developed Coast, C3 Coastal change Management ER1 Flood risk and ER2 Water management broadly support the proposal. Development within Paignton Town Centre will depend upon the sea defence works to comply with the Local Plan. The Local Plan also requires Habitats Regulations and marine ecology to be taken into account.

Similarly the Paignton Town Centre Masterplan SPD (June 2015) was written at a time when the detailed proposals for sea defences were at an early stage, but draft ideas are set out on page 26 of the SPD.

Policy PNP15 of the Neighbourhood Plan "Flood and Sea Defences" makes reference to the need for developer contributions towards strengthening coastal defences. PNP13 supports housing developments in the town centre and harbour area and notes the need for flood resilience.

On that basis , the overarching policy comment is that the coastal defences are a critical piece of infrastructure needed to deliver sustainable development in Paignton and safeguard the existing “Garden Suburb” part of the town.

In terms of specific site designations. Paignton Esplanade is within the Core Tourism Investment Area, Urban Landscape Protection Area, and Coastal Change Management Area (Policy C3). The national cycle network and South West Coast Path run along the site. Policies SS8, NC1, C2 are relevant in relation to marine ecology.

The Paignton Neighbourhood Plan designates both the Paignton Green and Preston Green as Local Green Spaces (PNP1(b)). In my assessment the provision of essential flood defence works constitutes a very special circumstance to allow development.

Part of the area at the North of the Esplanade is within Polsham Park Conservation Area.

I hope that the above sets out a broad Local Plan policy support for the proposal, which is an important piece of infrastructure need to support regeneration of Paignton. As noted, the proposal will affect a number of technical and related policy issues. Please contact the Team if you have queries about any of these. Rose Bailey Clark or Ashwag Shimin would be best placed to answer any specific Marine SAC, ecology or HRA matters.

Marine Management Organisation:

No response received.

Torbay Council’s Senior Environmental Health Officer (10.01.2024):

No objection.

Torbay Council’s Service Manager Engineering (30.01.2024):

The proposed development lies within Flood Zone 3 and the developer has submitted a site specific flood risk assessment in support of the planning application. The proposed development relates to the construction of new coastal flood defences which will significantly reduce the risk of coastal flooding to Paignton and Preston. The proposal includes for a new access road which will increase the impermeable area of the site. The developer is proposing to discharge surface water run-off from the access road using soakaways, please use the recently agreed standing advice for this planning application. As the proposed scheme will significantly reduce the risk of flooding in the Paignton and Preston areas of Torbay, I have no objections on drainage grounds to planning permission being granted for this scheme.

Environment Agency (25.01.2024):

No objection. The application site is located partially within areas of flood zone 2 (medium probability of flooding) and 3 (high probability of flooding) associated with both fluvial and tidal sources. We have reviewed the submitted Flood Risk Assessment (FRA) (ref.: 3095 dated September 2023 (on title page) by TDA group). We are satisfied that the proposed measures would comply with the overall requirements of the National Planning Policy and associated Planning Practice Guidance. The proposed measures will clearly deliver a reduction in flood risk including that posed by climate change over the lifetime of the development.

Torbay Council's Principal Climate Emergency Officer (16.01.2024):

Recommends planning conditions to carbon emissions and sustainability.

SWISCo's Senior Tree Officer (23.01.2024):

No objections subject to planning conditions being applied to secure tree protection and soft landscaping.

SWISCO's Green Infrastructure Service Manager:

No response received.

Devon County Council's Principal Ecologist (07.06.2024):

Bat surveys of the buildings indicated that there are no bat roosts present within the redline boundary, and GCN surveys indicated the waterbodies do not support this species either.

The BNG information has been completed correctly and fully justified. I note that it does not provide a 10% net gain in biodiversity, but at the time of this application statutory BNG was not in force and Torbay do not have a local plan policy indicated a certain amount of net gain to be achieved. Therefore I believe in this instance that the proposals are sufficient.

The HRA has already been approved by Natural England and there some details present within that HRA document that will require conditioning. The recommendations within the revised/finalised ecology report will also need to be conditioned.

Natural England (29.04.2024):

No objection subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Lyme Bay and Torbay Special Area of Conservation (SAC)
- hinder the conservation objectives of the Torbay Marine Conservation Zone (MCZ)

In order to mitigate adverse effects and make the development acceptable, the mitigation measures as detailed within the Habitats Regulations Assessment (HRA) and the MCZ Assessment should be secured via an appropriate planning condition or obligation attached to any planning permission.

Devon and Cornwall Designing-Out Crime Police Officer (29.01.2024):

No objections, subject to a planning condition to secure details of CCTV. Recommendations are also given in relation to bicycle stands, beachfront lockers, kayak and paddleboard storage, beach shelters, and materials that prevent graffiti.

Torbay Council's Principal Historic Environment Officer (13.06.2024):

Relevant Policy

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 66 (1) of the same act states that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local

planning authority or, as the case may be, the Secretary of State shall 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”.

This statutory requirement needs to be considered alongside relevant heritage guidance contained in the National Planning Policy Framework (2023) which recognises that heritage assets range from sites and buildings of local historic value to those of the highest significance. It requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (Para 201).

Paragraph 203 goes on to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 considers that ‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’.

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’ (Para 206).

Paragraph 208 adds that ‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’.

With regards to non-designated heritage assets, paragraph 209 advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

In terms of the Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policy SS10 of the Local Plan).

Significance of identified Heritage Assets:

The proposals have the potential to impact on a number of designated heritage assets. Elements of the site border the Polsham Conservation Area (to the north-west of The Green) and the Roundham & Paignton Harbour Conservation Area (to the south of Paignton Sands).

Close to the site boundary are three Grade II listed buildings; The Paignton Club to the south of Paignton Sands, Parkfield to the northwest of Paignton Sands and the Redcliffe Hotel located between Paignton Sands and Preston Sands.

The site also includes a number of non-designated heritage assets including existing pedestrian shelters, sea walls and Paignton Pier. The submitted Heritage Significance Statement (on page 2) helpfully outlines both designated and non-designated heritage assets which would potentially be impacted by the proposed development and makes an assessment of their significance. This thorough and considered assessment of significance is agreed with.

Impact on Significance of Heritage Assets:

The proposals are seen as an opportunity to not only deliver flood protection measures but to also result in a high-quality public realm which respects and is influenced by the history, cultural significance and evolution of the area.

The Council's Heritage Strategy supports this approach and states that:

"New flood defence schemes should recognise local distinctiveness in design and materials and take into account their relationship to heritage assets" (SEC04)

It is clear from the submitted heritage statement that a range of heritage assets both designated and non-designated could be impacted by the proposals, however, it is considered that the proposals would not cause any demonstrable harm to the heritage assets identified.

If high quality materials are used within the various aspects of the proposals (including new structures, public realm elements, and the use of natural stone cladding to the proposed sea wall) and existing pedestrian shelters sensitively repaired and repurposed, it is considered that the proposals would have a neutral impact to the significance of affected heritage assets.

In addition, positive impact can be identified when considering the number of heritage assets, specifically those which are located east of the railway line, which would stand to benefit from the reduced flood risk afforded through the implementation of the scheme.

As a result, it is considered that the proposed development would overall have a positive impact on the significance of the heritage assets identified within the submission and beyond further into Paignton.

In order to ensure that this positive impact is delivered, all finishes and design of public realm features should be of high quality and secured through condition, along with an appropriately detailed method specification for the repair and repurposing of the existing shelters where identified. The use of natural stone to match historical examples within and bordering the site is particularly encouraged.

Conclusions

The proposed development is supported from an historic environment perspective, subject to further details of materials, finishes and detailed design being secured through appropriately worded conditions.

Active Travel England (30.01.2024):

Deferral: ATE is not currently in a position to support this application and requests further assessment, evidence, revisions and/or dialogue as set out in this response.

As a result, ATE is broadly supportive of the proposed development. However, one area of concern has been identified in relation to motor vehicle parking and the safety of cyclists on the Eastern Esplanade. A possible amendment is provided for consideration by the local planning and highway authorities on this concern and ATE would welcome the views of the local authority on the suitability of this alteration.

Areas of Concern - Parking and cycle lanes on Eastern Esplanade

- The street arrangement on the Eastern Esplanade south of the pedestrianised area is to remain largely unchanged. This includes sea-facing diagonal parking spaces abutting the sea wall, with the one-way carriageway behind these and a contraflow cycle lane adjacent to the footway.
- The cycle-contraflow means that cyclists would travel in the direction of traffic flow, which is not in itself a concern, however when considered in combination with the diagonal parking spaces (where motor vehicles will be reversing out) and the one way street (which means drivers may have their primary focus on vehicles approaching from the north when making this manoeuvre) this represents a potential critical issue. Cyclists would be travelling along this highway with no physical segregation in an area where cars will be reversing out of parking spaces.
- Additionally, loading and unloading of motor vehicles and their boots occurs right onto the carriageway, which may push travelling vehicles into the advisory contraflow cycle lane. It also requires pedestrians who have exited parked vehicles to either walk on the carriageway alongside the parked vehicles, again pushing travelling vehicles into the cycle lane, or to cross to the esplanade footway and then cross back to get to the beach.
- It is noted that ATE's Inspectorate team have previously identified similar arrangements along seafront highways as being critical issues for the safety of cyclists.
- It is acknowledged that this is the existing arrangement and the application has not identified any significant safety or collision data, however, one of the objectives of the application is to encourage more cycle movements through providing improvements to the cycle route along the Eastern Esplanade and so it may be expected that cycle numbers along the contraflow lane will increase and potential for conflict will increase also.
- One solution could be to relocate motor vehicle parking adjacent to the footway rather than the sea wall, while keeping the same orientation of the diagonal parking spaces. This would require motorists to reverse into spaces and face towards the beach. In doing so, visibility of contraflow cyclist would be improved when making the reversing manoeuvre, and when exiting the parking space this would be undertaken in a forward gear, again with good visibility. Such an arrangement would also mean that when exiting a motor vehicle and unloading the boot this would occur immediately onto the footway,

reducing potential conflict between these users and motor vehicles travelling along the carriageway.

- Should this alteration not be desirable or achievable, then ATE would recommend that the existing arrangement be altered to provide greater visual and physical segregation to the contraflow cycle lane to provide better protection for cyclists and greater awareness to drivers making manoeuvres that cyclist will be travelling contraflow.

Please note that Active Travel England have been re-consulted given the additional information received, an update will be given to Members at Planning Committee.

WSP on behalf of the Local Highway Authority (31.01.2024):

Objection due to the submission of insufficient information.

Please note that the Local Highway Authority have been re-consulted given the additional information received, an update will be given to Members at Planning Committee.

Geopark Coordinator:

No response has been received before the publication of this report. An update will be given to Members at Planning Committee.

Planning Officer Assessment

1. Principle of Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Residential Amenity
5. Highways Access and Safety
6. Landscape
7. Ecology and Biodiversity
8. Flood Risk and Drainage
9. Low Carbon Development
10. Designing Out Crime

1. Principle of Development

The existing coastal defences along Paignton and Preston Sands help protect some of the flooding within the Paignton and Preston area, however there are instances where there is overtopping. The existing coastal defences are inadequate during high tides and easterly wind conditions, resulting in many properties being flooded and damage being caused to critical infrastructure. The existing coastal defences were considered to be constructed during the end of the 19th century.

The proposed development is for the installation of coastal defences and associated works across Paignton Sands and Preston Sands. The proposed coastal defences are the minimum height necessary to provide protection to over 400 properties and the railway line from extreme tidal events. The proposed development is engineered to resist the impact of direct wave energy or alternatively to dissipate it; resist erosion from mobile sediments; and resist deterioration under saline attack. The anticipated future extents of flooding are expected to extend given the impact of climate change and the implications of such on sea levels,

therefore the proposed development would assist at alleviating flood risk.

The proposed development builds upon the Paignton & Preston Community Seafront Masterplan. The proposed development would also help to deliver the objectives of Policy PNP15 of the Neighbourhood Plan which includes reducing the risk of flooding from seawater and protection from rising sea levels. Policy PNP4 of the Neighbourhood Plan seeks the improvement of the seafront, including the upgrading of the public realm and public shelters to provide enhanced seating, weather protected and information facilities to improve the tourism offer. The proposed development is considered to be of a nature and scale that would be consistent with its surroundings and character of the area and is necessary development to assist in protecting Paignton and Preston from tidal and storm surges taking into account climate change.

The site, both Paignton Sands and Preston Sands, are designated Local Green Space within the Paignton Neighbourhood Plan under Policy PNP1(b). The policy guides that development proposals will only be supported in very special circumstances. The policy cites that 'very special circumstances' will not exist unless the potential harm to these local green spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The NPPF outlines that the designation of Local Green Spaces allows communities to identify and protect green areas of particular importance to them. Paragraph 107 of the NPPF confirms that policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraph 152 of the NPPF states "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". The NPPF sets out inappropriate forms of development. The proposed development is an important piece of infrastructure that is needed to support the regeneration of Paignton and to protect the existing built environment, therefore it is considered that the proposal constitutes very special circumstances.

Policy C2 of the Local Plan cites that development will be permitted in the developed areas of the coast where it benefits the economy and does not unacceptably harm the landscape character and appearance of natural, historic or geological assets. The proposed development will benefit the economy by ensuring flood resilience to a number of commercial properties that currently experience flooding during extreme tidal events. The application has been supported by ecological and heritage statements, such matters are discussed later in this report. Policy C3 of the Local Plan outlines that the Council will support measures that are compatible with or actively support coastal change management. The proposed development will positively affect the surrounding area to ensure that there is alleviation from the risk of flooding.

The site is located within the Paignton Seafront, Harbourside and Green Coastal Park Core Tourism Investment Area. Policy TO1 of the Local Plan seeks that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. It furthers that tourist facilities will be improved, and modernised and new tourism facilities provided, in order to attract new visitors. The policy supports in principle the provision of new tourist attractions, subject to other Policies in the Local Plan. The policy supports the retention, improvement and creation of high-quality tourism and leisure attractions in sustainable, accessible, locations with a particular focus on Core Tourism Investment Areas as the areas for investment in tourism. The proposed development will

enhance the public realm of Paignton Sands and Preston Sands, promote sustainable transport, and provide a resilient coastal defence to assist in ensuring the longevity of Torbay's tourism offer.

The site is also located within the Paignton Town Centre Community Investment Area as defined by Policy SS11 of the Local Plan and Policy PNP14 of the Neighbourhood Plan. Policy SS11 states that development proposals will be supported in principle where they regenerate or lead to the improvement of social, economic or environmental conditions in Torbay. Policy PNP14 seeks to improve the tourism opportunities in the seafront Core Tourism Investment Area.

Policy SDP2 of the Local Plan confirms that development within the Paignton Town Centre and Seafront areas needs to be resilient to the effects of the sea level rise and contribute towards the provision of flood defences. Policy SS7 of the Local Plan outlines that in order for development to be permitted, development must be supported by the provision of critical infrastructure to enable development to proceed, and specifically references critical flooding infrastructure. The Policy goes on to state that major development is expected to contribute to the provision of an appropriate range of physical, social and environmental infrastructure, commensurate to the type and scale of development, and the needs of the area. The proposed development is a critical piece of infrastructure that will assist in bringing forward development in the Paignton Town Centre and Seafront area.

The proposed development is anticipated to take approximately 4 years to deliver, given that a contractor is yet to be tendered, a planning condition is recommended to secure a phasing plan to ensure that the proposed development is undertaken in stages to prevent unnecessary disruption to both seafronts.

In conclusion, the principle of development is considered to be acceptable. The proposed development is a crucial piece of infrastructure that will provide essential flood resilience for Paignton, there are no Development Plan policies indicating that the proposal is not acceptable in principle.

2. Design and Visual Impact

It is important to note that achieving good design is a central thread within national guidance and Part 12 of the NPPF "Achieving well-designed and beautiful places" offers key guidance on this. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 goes on to state that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 139 states that "*development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design*". Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) is the key policy tool within the Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The proposal involves the construction of approximately 1,163 metres of primary flood defences including 24no. steel flood defence gates, resurfacing of the lower promenades, a new Geopark Café, the inclusion of associated works, landscaping and public realm features including seating, lockers and paddle board storage.

The applicant commissioned a Seafront Masterplan in 2022 that was produced by LDA, the following principles were established:

- Put pedestrian movement and safety first;
- Ensure the seafront is accessible for all;
- Reduce visual impact and severance caused by vehicles on the seafront;
- Flood defences should support existing businesses along the seafronts;
- Flood defences should support the local character of the seafronts;
- The seafront provides space for a range of activities and uses throughout the year, and supports tourism within Torbay and the town;
- Views of the sea and beach are retained from the promenade; and
- Provide space for new planting that supports local flora and fauna.

The applicant has undertaken an extensive community and stakeholder engagement process prior to the submission of the application, this is evidenced within the supporting Design and Access Statement. A letter of support has commented that the proposed development would have a positive impact on the local area, make existing tourist facilities better, as well as providing facilities.

The proposed coastal defence across Paignton Seafront would have a height of +5.50m AOD, this is proposed across both northern and southern sections of Paignton Green. The core width of the promenade is to be retained and the proposal provides an additional upper promenade that the reconditioned public shelters will be accessed from. The events space across Paignton Green will be retained with only a minor reduction of space along the seaward edge to provide the embankment. The landward side of the coastal defence shall be achieved through a grass embankment, with the seaward side having a terraced arrangement. The proposal involves the removal of a section of parking (74no. parking spaces) to make way for a central public realm space, this will enable a new Geoplay Park Café (details of which are to be agreed through planning condition to secure good design), the existing kiosk businesses to be relocated and a spill out space for the Geoplay Park which will remain unaffected by the proposal. The existing public shelters will be retained, reconditioned and relocated to provide use to all, all year round.

The site (Paignton Green North, Paignton Green South and Preston Green) is located within areas designated as Urban Landscape Protection Areas (ULPAs) as defined by Policy C5 of the Local Plan. Policy C5 specifies that development within an ULPA will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPAs, subject to a suitable landscaping. It is considered that it is possible to develop the site for the type and quantum of

development as set out in the proposal without having an unacceptable adverse impact on the ULPA's in terms of the proposal not undermining the value of the ULPA's as an open or landscaped feature within the urban area as the proposal is anticipated given the coastal location. The proposed development would make a positive contribution to the urban environment and enhance the landscape character of the ULPA's, through the enhanced public realm and landscaping proposed.

The detailing of the primary coastal defence has not been confirmed in full, the supporting Design and Access Statement outlines that it will need to be constructed from concrete, however the use of local aggregates and natural stone cladding would be sympathetic to the adjacent listed buildings and conservation area, as well as providing an attractive, interesting linear structure, typical in coastal towns. This choice of material would also reduce the potential for graffiti. A planning condition is recommended to secure detailing and samples of the coastal defences. To ensure robust, flood resilient and future-proofed coastal defences are provided, a planning condition is recommended to secure the methodology of construction for the coastal defences.

Similarly, details of the flood gates have not been provided, a planning condition is recommended to ensure high quality design within such prominent public realm areas. The submitted scheme does not include a feature wall, not to preclude such coming forward, a planning condition has been recommended to include details of the finish, which elements of public art, wayfinding etc. can be included within.

The proposed coastal defence across Preston Seafront will be situated between the two existing lines of beach huts, the proposed height of the defence will be +5.90m AOD and a 550mm thickness. The proposed coastal defence will be clad in natural stone to mirror the colour and texture of the existing sea defence, a planning condition is recommended to secure details of the natural stone.

Concerns with the objections received include fears of the displacement/removal of the existing beach huts along Preston Seafront, as well as the impact of the proposed development on the local area and it constituting overdevelopment. The 326no. beach huts along Preston Seafront are to be retained, with 181no. on the landward side and 145no. on the seaward side. It will be trialled as to whether the landward side beach huts can be permanently retained in situ or whether they will have to be removed in autumn due to the weather conditions. The existing public shelters will be retained, reconditioned and relocated to provide use to all, all year round. The proposal includes lockers and paddleboard lockers. The existing kiosk, Sara's Café will be retained within the scheme. The proposed coastal defence across Preston Sands is anticipated to be a natural stone cladding to tie into the existing sea defences, this would also mitigate the visual impact of the proposal. A planning condition is recommended to secure detailing and samples for the built form.

In terms of street furniture, the supporting Design and Access Statement indicates that there will be litter bins, cycle stands, handrails, benches, lockers and showers. A planning condition is recommended to secure details of such prior to their installation. A Management Strategy has also been recommended as a planning condition to ensure that the public realm and landscaped areas are maintained for the lifetime of the development

to ensure a high quality development.

To ensure high quality promenades and public realm spaces, a planning condition has been recommended to secure hard surfacing materials to ensure the proposal lends itself to its prominent coastal location and blends within the surrounding area.

The application is supported by a Landscape and Visual Appraisal (October 2023). The application site is located within the Low Lying Coast and/or Beach (Devon Type 4G). The Appraisal confirms that the application site is not located within any designated landscapes at a national or local level. The Appraisal confirms that the views across Tor Bay would be unaffected with inward views marginally affected by the slight increase height of the sea wall. The proposed development is a critical piece of infrastructure that would be visually anticipated given its coastal location. With a suitable materials palette and a robust soft and hard landscaping scheme, it is considered that the proposed development would provide improved coastal defences and public realm in keeping with the locality.

Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy DE1 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan and the guidance contained within the NPPF.

3. Impact on Heritage Assets

The southern boundary of the application site that covers Paignton Sands is within Roundham and Paignton Harbour Conservation Area and the northern boundary of Paignton Sands is within 15 metres of Polsham Conservation Area. The application site is adjacent to four Grade II listed buildings (the Redcliffe Hotel, Paignton Club, Parkfield and the Harbour Light Restaurant). The Council's Principal Historic Environment Officer has confirmed that the existing public shelters, sea walls and Paignton Pier are non-designated heritage assets. The application is supported by a Heritage Significance Statement (Daniel J Metcalfe, October 2023).

Policy SS10 of the Local Plan requires development to sustain and enhance assets and adds that all assets will be conserved proportionate to their importance and concludes that proposals that enhance heritage assets or their setting will be supported. Policy PNP1 of the Neighbourhood Plan outlines that sustainable development will be achieved through, amongst other elements, the enhancement of heritage features.

It is also incumbent on the Authority, in exercising its duties, under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 66(1)), to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, and (Section 72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

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

Paragraph 195 of the NPPF states that heritage assets are an irreplaceable resource, and

should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The NPPF outlines that the conservation of heritage assets should be given great weight in decision making (Paragraph 205 refers).

Paragraph 203 of the NPPF goes onto to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 of the NPPF considers that *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. Paragraph 206 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), requires clear and convincing justification. Paragraph 208 of the NPPF outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

With regards to non-designated heritage assets, Paragraph 209 of the NPPF advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The application is supported by a Heritage Significance Statement which covers the range of heritage assets both designated and non-designated that could be impacted by the proposal. The Council’s Principal Historic Environment Officer has been consulted on the application and has confirmed that the proposed development would not cause any demonstrable harm to the heritage assets identified. The Council’s Officer has stated that subject to the use of high-quality materials, the proposal would have a neutral impact to the significance of affected heritage assets. The proposed development would provide a positive public benefits to the heritage assets east of the railway line given the reduced flood risk afforded through the implementation of the scheme. The Council’s Officer has concluded that the proposed development would overall have a positive impact on the significance of the heritage assets identified within the application site, surrounding area and beyond further into Paignton, subject to planning conditions to secure materials and a detailed method specification for the repair and repurposing of the existing shelters.

Subject to the recommended planning conditions, the proposal is considered to accord with Policy SS10 of the Local Plan and Policy PNP1 of the Neighbourhood Plan.

This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses and for development that affects a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of such.

4. Residential Amenity

Paragraph 135 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan seeks to secure development that does not unduly impact upon the amenity of neighbouring and surrounding uses, with impact being assessed to include noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

The scale and location of the proposed works are considered to be suitable and acceptable. Its form and location would have little impact upon nearby residents and would assist at protecting surrounding commercial operations along Paignton and Preston Sands from future flooding. The development may have a more demonstrable beneficial impact on neighbouring commercial operations where they may benefit from the additional footfall and tourism interest that the proposed public realm works and enhancements are likely to generate.

In terms of residential impact, the nearest adjacent properties on Marine Drive (B3201) are approximately 40 metres from the proposed development. An objector has raised concerns of the lack of consultation. The proposal has been before extensive public consultation prior to the submission of the planning application and the relevant public consultation processes regarding this application have been undertaken. The application has only received four letters of representation, no concerns were raised in relation to residential amenity. Given its siting, scale, and design, it is considered that the proposal would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, or access to natural light. Planning conditions are recommended to secure a Construction Method Statement and construction hours to protect surrounding occupiers and in the interests of highway safety. A planning condition has also be recommended for if any contamination is found during construction works.

In terms of amenity the proposed development would be acceptable and compliant with Policy DE3 of the Local Plan and the guidance contained within the NPPF.

5. Highways Access and Highway Safety

Paragraph 114 of the NPPF guides that in assessing 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; 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 115 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major development, development proposals should ensure that there is a good standard of access for walking, cycling, public and private transport. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy PNP1(h) of the Neighbourhood Plan outlines that new development should aim to achieve where appropriate electric vehicle charging points and comprehensive direct networks for walking, cycling and public transport within and beyond the development.

The application site encompasses areas of beach, existing coastal defences, promenades and access points from Esplanade Road (B3201) and Marine Drive (B3201) respectively. Objectors have raised concerns regarding loss of vehicular access, loss of parking and the impact on traffic flow and safety.

Vehicular Access

The proposed development will alter the existing vehicular access to Paignton Sands. The current one-way Eastern Esplanade vehicular access from the two-way highway will remove the split that currently exists at the head of Paignton Pier. The proposal will remove the southern vehicular access to make a pedestrianised space except for timed serviced vehicles, therefore vehicles will only be able to travel north from Paignton Pier, which will retain 78no. echelon parking spaces, alongside 2no. disabled parking spaces adjacent to Paignton Pier. There will also be a loading bay along Pier Road to allow servicing for adjacent businesses. The proposal includes the provision of a new vehicular access adjacent to Vue Cinema that will include a new turning head to allow the short section of two-way road to be used for loading and 8no. disabled parking spaces. Beyond the new access, the southern section of carriageway will remain as one-way south-bound highway, with 49no. echelon parking spaces. It should be noted that the existing highway arrangements in front of Vue Cinema will remain largely unaffected by the proposal with motor vehicle users giving way to the new vehicular access and then being able to exit onto Esplanade Road as they are currently able to do so.

Event access from Pier Road will remain unchanged and the existing stone boulders will be relocated to prevent unauthorised access onto Paignton Green.

The Local Highway Authority has requested a Construction Traffic Management Plan, such has been recommended as a planning condition to protect local amenity and

highway safety during the construction phase of development. A further planning condition has been recommended to secure detailed drawings of the roads and footpaths to ensure the development is constructed to an appropriate standard, and in the interests of safety and to create a safe and attractive environment.

The proposed development does not propose any changes to the existing highway layout or parking arrangements along Marine Drive.

Pedestrian Access

The proposal has incorporated British Accessibility Standards (BS 8300:2018) step-free access routes where possible, the proposed development includes 1:21 slopes to ensure the seafronts are accessible for all, and avoid obtrusive railings and barriers where possible. The access to the foreshore on both Paignton Sands and Preston Sands remains unchanged. With existing slipways, accessible ramps and seawall steps retained.

The application site includes sections of the South West Coast Path, such route remains unchanged across both Paignton Sands and Preston Sands.

Across Paignton Sands, pedestrian access steps and large seating terraces are integrated at frequent intervals. The proposal has ensured that 1:21 slopes have been provided to either end of the northern and southern defences to allow a continuous route to be created to the top of the embankments. The proposal also includes a 1:21 slope in the centre of the northern green defence to reduce the distance between access points.

The proposal includes new informal access routes across the central and northern greens to help increase connection with Esplanade Road and Paignton Town Centre beyond. The proposal will ensure that there will be a safe walking zone for all users at all times behind the coastal defence when flood gates are closed, to provide year-round access to Paignton seafront. The proposal includes a new zebra crossing to Pier Road to mitigate conflict here during busy periods and give priority to pedestrians.

The land between Vue Cinema and Pier Road on the seaward side, known as Eastern Esplanade is to be pedestrianised, this will involve the removal of 74no. parking spaces. The area is adjacent to the Geoplay Park which will provide level access for all between the landward and seaward uses of the seafront. The proposed flood gates have been sited at key pedestrian desire lines and existing pathways. The proposal includes a new landward footpath behind the flood defences to ensure year-round access to the protected kiosks and the new Geopark Café.

Along Preston Sands, the existing beach huts and adjacent promenade has been retained, ensuring level access remains unaffected. The proposal includes a new steps (2no.) to replace the existing plinth to improve accessibility throughout the year once the seaward beach huts have been removed, this also aligns with the applicant's responses received to the community engagement workshops. The proposed development includes 1:21 slopes to ensure access to the shelters, Sara's café, and northern green when arriving from Marine Parade. The proposed flood gates will allow level access through the flood defence wall. The existing promenade will be resurfaced with asphalt to provide a level surface for all to use safely.

Cycle Access

The cyclist movement across Paignton and Preston Sands will remain unchanged. Cyclists are permitted to cycle the length of Paignton seafront and are prohibited along Preston seafront given the dedicated cycle lane adjacent to Preston Green.

Along Paignton Seafront, the proposed development retains contra-flow cycle lanes to the northern and southern sections of the carriageway where parking has been retained. Where the central section of Paignton seafront has been closed for pedestrianisation, there will be a segregated cycle lane as per guidance within LTN1/20 Cycle Infrastructure Design, due to the large number of pedestrians present. To ensure all can identify the segregation, cycleway demarcation kerbs are proposed, along with a surfacing change. To reduce the potential conflict between cyclists and pedestrians, zebra crossings have been sited to ensure cyclists give-way to pedestrians within this pedestrianised area.

Across Paignton seafront, the proposal includes 47no. cycle parking spaces, providing spaces both in-front and behind the coastal defence.

Along Preston Green, a new segregated cycle ramp is proposed in the northern corner to link with the existing cycle lane alongside Preston Green. The proposal includes additional bollards to the entrance of the promenade to indicate that cyclists are to use the proposed segregated cycle ramp rather than Preston promenade. Across Preston seafront, the proposal includes 10no. cycle parking spaces.

The adopted Torbay Local Cycling and Walking Infrastructure Plan (LCWIP) provides recommended improvements for the Hollicombe Park to Paignton Pier section of Paignton which the application site falls within. These recommendations include:

1. New minor kerb build out and realignment where existing shared use path meets Marine Parade to improve access and prevent parked vehicles obstructing the path.
2. Marine Parade (behind beach huts). On-road provision proposed due to very low traffic flows. Consider removing a small number of parking spaces, to allow for more comfortable passing places. Provision of signage and wayfinding to direct people cycling to use the on-road route rather than in front of the beach huts, which is likely to cause conflict with people walking and beach hut users.
3. Reconfigure junction of existing cycle path on Marine Drive to Marine Parade to maintain segregation and improve the directness and legibility of this small section of route. Also, provide clearer signage and cycle parking to enhance the attractiveness of this route.
4. Marine Drive. Widen footway on east side of Marine Drive. This would improve the quality of this key section of the South West Coast Path for people walking and create a more attractive walking link between Paignton and Preston promenades. Also consider 20mph zone to make roads safer and retain access for all. Potential conversion to one-way southbound traffic in order to create space for cycle path segregation could be a further option in the longer term which could be explored as an additional element subject to careful consideration of impacts on traffic flows and access.
5. Eastern Esplanade. The existing on-carriageway provision is broadly acceptable for people cycling due to the low traffic volume but could be improved with provision of a

fully segregated cycle route. Consider moving parking to the rear side of the promenade to improve safety. This would also improve the walking and cycling experience on the promenade by opening up sea views for more people.

Separate to this application, a number of these recommendations have been implemented, such as the inclusion of demarked parking spaces along Marine Drive which has reduced the level of parking; and the reduction of speed along Marine Drive has become 20mph from 30mph.

Parking

The proposed development would remove 74no. echelon parking spaces from Paignton seafront, as well as making other modifications to the parking provision. The proposed parking provision for Eastern Esplanade is set out in Table 1:

Table 1 – Parking Modifications to Eastern Esplanade, Paignton

| Type | Current | Proposed | Net Change |
|-----------------------------|----------------|-----------------|-------------------|
| Disabled Car Parking Spaces | 2 | 10 | +8 |
| Standard Car Parking Spaces | 207 | 125 | -82 |
| Total | 209 | 135 | -74 |
| Loading Bays | 2 | 3 | +1 |
| Motorcycle Parking Spaces | 3 | 3 | 0 |

The Local Highway Authority have confirmed that the loss of parking is considered to be acceptable given that the application site is in close proximity to Paignton Town Centre and Victoria Car Park (420 spaces) is less than 300 metres away. Paignton Railway Station, Steam Railway and bus station are also in close proximity. Furthermore, the loss of parking would enhance the public realm area particularly around the Geopark which would enhance pedestrian safety due to users spilling between the Geopark and beach. The existing parking provision along Paignton seafront is echelon, the proposed development retains the majority as such.

The proposal does not include electric vehicle charging points due to the parking provision being at risk of flooding it would be impractical to have such equipment in this area. The Council are currently reviewing electric vehicle charging facilities across Paignton.

The proposed development would provide 57no. cycle parking spaces to encourage sustainable travel, which is considered to be acceptable.

Active Travel

Active Travel England have been consulted on the application. Their initial consultation response raised concern regarding the potential for cyclist versus motor vehicle conflict given the parking arrangements and contra-flow cycle lane when considering the lack of physical

segregation. The applicant has confirmed that the existing layout has worked successfully without any recorded incidents since it was implemented. The applicant has considered the repositioning of the contra-flow cycle lane, however on the northside of Eastern Esplanade there is a low wall directly adjacent to where the cycleway would run that would require a safety barrier and on the southside of Eastern Esplanade the wall is higher which may result in clashes with handlebars as the width of the carriageway in this location only allows for a minimum width cycleway. The applicant has also considered if parking were to be moved to the opposite side of Eastern Esplanade, then there would need to be some form of barrier or bollard system to ensure vehicles do not reverse over or onto the pavement. An update will be provided to Members regarding the re-consultation with Active Travel England.

Extinguishing Public Highway

The proposal includes extinguishing the adopted public highway for the length of Eastern Esplanade Road and Pier Road. The applicant has confirmed that this extinguishment is at the request of the Local Highway Authority to enable the closure of Eastern Esplanade for either a severe weather event or planned event to be simplified and less timely to implement.

Waste

The applicant has submitted a Waste Management Plan to support the application, which provides information on the recycling and refuse storage, and how the proposal can be serviced during the construction and operational phases of the project. The applicant has confirmed that the collection of the public bin waste will continue to be serviced from Eastern Esplanade. The supporting Waste Management Plan sets out the private waste collection of the existing businesses across both seafronts.

Highways Summary

An update will be given to Members on the latest consultation response following a re-consultation. The proposed development, subject to the planning conditions recommended above, is considered to present a broadly acceptable scheme in terms of access and highway safety, in accordance with Policies DE3, TA1, TA2 and TA3 of the Local Plan and the guidance contained within the NPPF.

6. Landscaping

Landscaping is a key component of placemaking. The importance of contextual and effective landscaping is highlighted within Chapter 12 of the NPPF. Paragraph 130 of the NPPF outlines that achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character. 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.

Policy C4 of the Local Plan 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 Neighbourhood Plan includes reference to development proposals retaining existing natural features that make the location distinctive and attractive.

The application site is a high frequency use public open space and multi-use recreational space. The application site does not include any statutory designations relating to trees. There are existing trees, which are high profile and in a prominent position, are located adjacent to the roadside boundary. The Council's Senior Tree Officer has confirmed that the existing trees are wind pruned and are unlikely to reach their potential due to the environmental conditions.

The proposed development has been supported by a Tree Report and involves the removal of 2no. trees (T001 & T007) which categorises the trees as low-quality. The Officer has confirmed that mitigation for the loss of trees can be compensated through soft landscaping works which includes the erection of new trees and palms to reflect the coastal location. The supporting information indicates that there will be tree protected to the retained trees and hedges. The Officer has recommended a pre-commencement planning condition regarding the installation of tree protective fencing, pre-commencement site meetings and work stage processes which will need to be followed correctly.

The proposed soft landscaping scheme seeks to provide 25no. new trees and 86no. multi-stem shrubs along the length of Paignton seafront. The proposal also includes over 1,000 square metres of coastal herbaceous planting. Species have been carefully selected to ensure their resilience to the harsh conditions found on the seafront, and to enhance the English Riviera character of Torbay. Planning conditions are recommended to secure soft and hard landscaping as detailed drawings have not been submitted with the application.

Subject to the recommended planning conditions, the proposal is considered to present a scheme that considered compliant with Policies DE1 and C4 of the Local Plan and Policy PNP1(c) of the Neighbourhood Plan and the guidance contained within the NPPF.

7. Ecology and Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plans states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy PNP1(c) of the Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal safeguard biodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites. Guidance within the NPPF provides similar guidance to the above and notably Paragraph 180 guides that when determining planning applications, local planning authorities should apply principles that include opportunities to improve biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity.

The application site is situated directly adjacent to the Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ), and is approximately 1km away from Roundham Head Site of Special Scientific Interest (SSSI). The application site is also within the Great Crested Newt consultation zone. The application is supported by an Interim Ecological Appraisal (Devon Wildlife Consultants, December 2023), an Ecological Appraisal (Devon Wildlife Consultants, May 2024), the Torbay Wildlife and Geology Trigger Table (October 2023), and the Biodiversity Metric 4.0 Calculation Tool.

The Ecological Appraisal states that the proposed development is unlikely to see any increase in recreational pressure as a result of the flood defence works. Devon County Council's Ecologist has agreed with this conclusion. The application does not require the provision of a statutory 10% biodiversity net gain, as the application was validated prior to February 2024. The proposed development does achieve a net gain and therefore the proposal is considered to be acceptable by Devon County Council's Ecologist.

Both the submitted Appraisal and Devon County Council's Ecologist consider that there is potential for nesting birds and accordingly a planning condition is recommended to ensure that such are protected during the nesting season. The submitted bat surveys confirm that there are no bat roosts present within the buildings of the application site and the Great Crested Newt surveys have confirmed that the waterbodies do not support such species. The Appraisal recommends a number of compensation and enhancement measures, as well as light spill control measures that are recommended as planning conditions.

The proposed development is located close to the Lyme Bay and Torbay SAC with designated features, Reefs, and Submerged or partially submerged sea caves. To assess whether the proposal was likely to have a significant effect on the European Site, an Appropriate Assessment was undertaken. A HRA has been undertaken in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). This has approved by Natural England. In order to mitigate potential adverse effects and make the proposed development acceptable, the mitigation measures as detailed within the HRA must be conditioned. The mitigation measures are contained within the supporting Construction Environmental Management Plan (CEMP).

The proposed development is also located adjacent (with activities within) the Torbay MCZ with the following designated features.

- Intertidal coarse sediment
- Intertidal mixed sediments
- Intertidal mud
- Intertidal sand and muddy sand
- Intertidal underboulder communities
- Long snouted seahorse (*Hippocampus guttulatus*)
- Low energy intertidal rock
- Moderate energy intertidal rock
- Native oyster (*Ostrea edulis*)
- Peacock's tail (*Padina pavonica*)
- Peat and clay exposures
- Seagrass beds
- Subtidal coarse sediment

- Subtidal mud

A MCZ Assessment was undertaken. This has been approved by Natural England. In order to mitigate potential adverse effects and make the proposed development acceptable, the mitigation measures as detailed within the MCZ Assessment must be conditioned. The mitigation measures are contained within the supporting Construction Environmental Management Plan (CEMP).

A planning condition has also been recommended to obtain full details of any proposed external lighting to consider the impact of artificial light pollution on the marine environment, as well as ensuring the lighting does not unacceptably impact neighbouring occupiers and provides sufficient levels to prevent anti-social behaviour.

Subject to the recommended planning conditions, the proposed development is considered to accord with Policies SS8 and NC1 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan and the guidance contained within the NPPF.

8. Flood Risk

Paragraph 165 of the NPPF confirms that where development is required in areas at risk of flooding, the development should be made safe for its lifetime without increasing flood risk elsewhere. Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy ER2 of the Local Plan confirms that Pollution Prevention Plans should be submitted where there is a significant risk of adverse effects on aquatic ecosystems. Policy PNP1(i) of the Neighbourhood Plan confirms that development proposals will be required to comply with all relevant drainage and flood risk policy.

The application site is located partially within areas of flood zone 2 (medium probability of flooding) and 3 (high probability of flooding) associated with both fluvial and tidal sources as defined by the Environment Agency. The application site is also within a critical drainage area as defined by the Environment Agency. The application is supported by a Site-Specific Flood Risk Assessment, a Coastal Vulnerability Assessment and a Pollution Prevention Plan.

The submitted Flood Risk Assessment (September 2023) outlines that within the reclaimed area of Paignton, the lowest ground level is approximately 2.3m AOD which is lower than the mean astronomical high tide level of 2.8m AOD. The existing coastal defenses are considered to be in “*fair*” condition and given their age are in “*slow*” deterioration. The proposed development is to have a design life of a minimum of 120 years. The purpose of the proposed development is to provide a 1 in 200 year protection to properties in Paignton and Preston.

Figure 1 - 0.5% Annual Exceedance Probability Extent in 2015

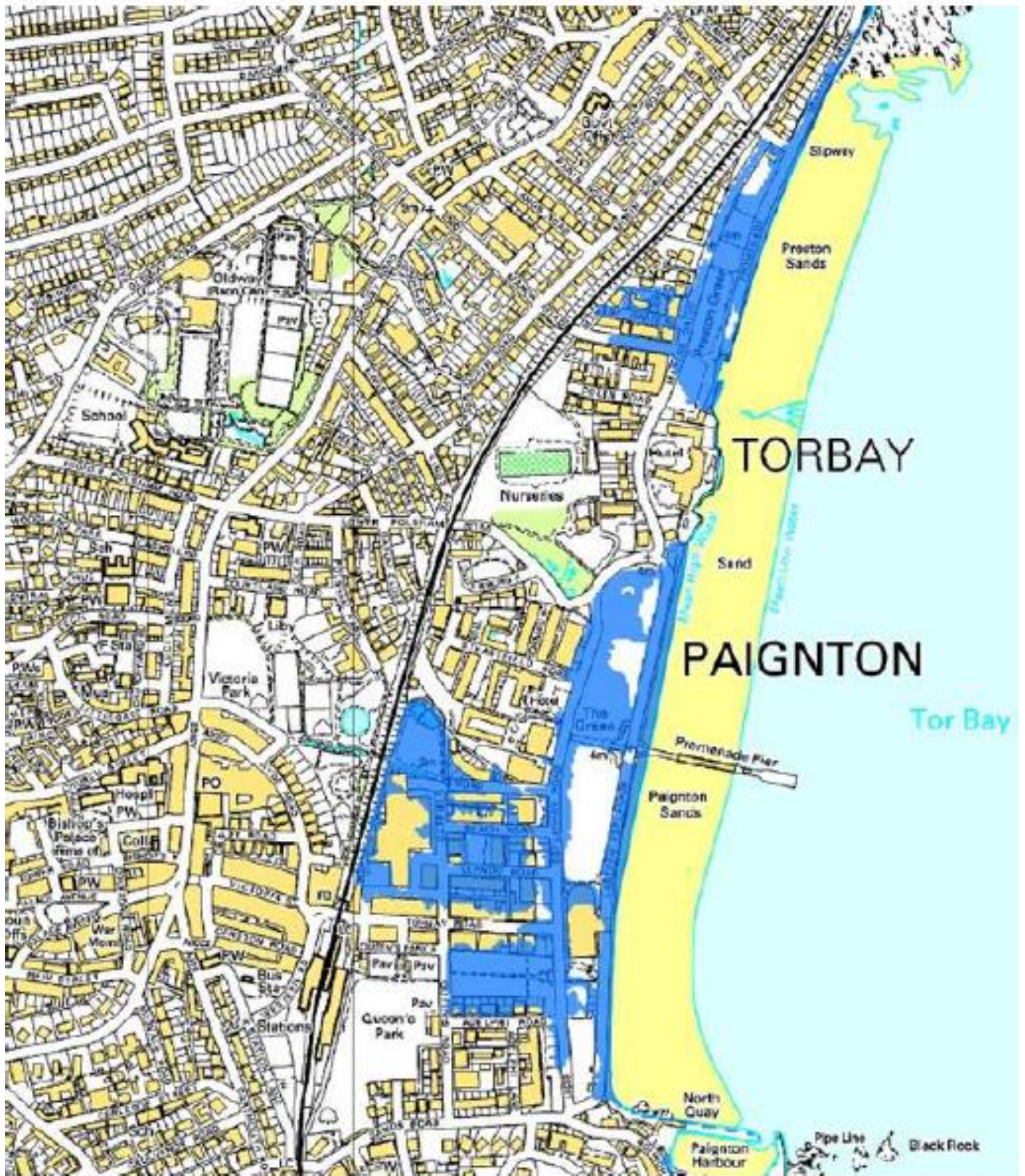


Figure 2 - 0.5% Annual Exceedance Probability Extent in 2065



The proposed coastal defences, public realm elements and relocation of existing commercial businesses would pass the sequential test as the coastal defences are specifically designed to provide coastal flood protection to Paignton and Preston and the vulnerability of the existing commercial businesses would not be worsened.

Planning Practice Guidance (Paragraph: 079, Reference ID: 7-079-20220825) confirms when the exception test should be applied. Paragraph 170 of the NPPF sets out the two tests a proposal must demonstrate to pass the exception test:

- a) *the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) *the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

The proposed development would provide wider sustainability benefits to the community, as it would provide coastal flood protection that would protect approximately 400 properties at risk of flooding. The proposed development would also be safe for its lifetime and take account of the vulnerability of its users, as it would provide a protected route for users at all times of the year. The proposal is to reduce coastal flood risk overall for Paignton and Preston. Paragraph 171 of the NPPF confirms that both elements of the exception test should be satisfied for development to be permitted. It is therefore considered that the proposed development would pass the exception test.

Paragraph 178 of the NPPF outlines that development in a Coastal Change Management Area will only be appropriate where it can demonstrate the following:

- a) *it will be safe over its planned lifetime and not have an unacceptable impact on coastal change;*
- b) *the character of the coast including designations is not compromised;*
- c) *the development provides wider sustainability benefits; and*
- d) *the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast.*

The application is within a Coastal Change Management Area as defined by Policy C3 of the Local Plan. The proposed development meets the criteria stated within Paragraph 178 of the NPPF.

The national Shoreline Management Plan (SMP) was adopted by Torbay Council in 2010 to cover up to 2105. The SMP has 4 no. status codes:

H = Hold the Line - maintain or upgrade the level of protection provided by the existing coastal defence.

A = Advance the Line - build new defences seaward of the existing defence line.

M = Managed Realignment - allow retreat of the shoreline inland, with management to control or limit that movement.

N = No Active Intervention - a decision not to invest in providing or maintaining defences.

The SMP splits into time periods, for this section of coastline (Hollicombe Head to Roundham Head), the coastline is to "Hold the line". The SMP states "Hold the line" should: "Where protection is currently provided by coastal defence structures or managed

beaches, and the intention is to retain a defence along approximately the current alignment. This will involve replacing defences when needed. Defence type, method and standard of protection may be modified over time". The proposed development would align with the SMP as it would maintain and add to the coastal defences for the next 100 years to provide a level of protection to Paignton and Preston.

The Environment Agency were consulted on the application and have confirmed that they raise no objection to the proposed development, as the proposal will deliver a reduction in flood risk including that posed by climate change over the lifetime of the development and will comply with the overall requirements of the NPPF and associated Planning Practice Guidance. The Environment Agency's response welcomes the proposed pollution mitigation measures, however they have requested that the document indicates how run-off from the construction site would be managed and consideration given to the implications of storage (machinery and materials) when exposed to inclement weather, high winds and flooding. Planning conditions have been recommended to secure the supporting Pollution Prevention Plan, as well as seeking additional detail on the storage of machinery and materials during severe weather conditions.

The Council's Drainage Service Manager has been consulted on the application and has confirmed no objections to the proposal and that the proposed development will significantly reduce the risk of coastal flooding to Paignton and Preston. The proposal includes for a new access road which will increase the impermeable area of the site, to which the developer is proposing to discharge surface water run-off from the access road using soakaways. The Council's Drainage Service Manager has confirmed that such can be secured through planning condition and therefore a planning condition is recommended for such.

Subject to the aforementioned planning conditions, the proposal is considered to accord with Policies ER1 and ER2 of the Local Plan, Policy PNP1(i) of the Neighbourhood Plan and the guidance contained within the NPPF.

9. 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 Local Plan seeks major development to minimise carbon emissions and the use of natural resources, including consideration of construction methods and materials. Policy ES1 of the Local Plan 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.

The applicant has utilised the Environment Agency's Whole Life (Construction) Carbon Planning Tool which has provided a high level embodied carbon calculation for the scheme. The Council's Principal Climate Change Officer has confirmed that whilst the

use of the tool is welcomed, there is no comparison/benchmarking against similar infrastructure projects. The Officer recommends planning conditions for benchmarking to demonstrate if this scheme's predicted carbon emissions are broadly in line with similar flood related infrastructure projects; for whole carbon life cycle assessments, both pre- and post-construction phases to demonstrate how carbon emissions have been reduced; and detailed plans to be submitted outlining how embodied carbon emissions will be reduced, including a range of mitigation actions.

Policy PNP1(f) of the Neighbourhood Plan 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, or a conservation area; and
- v) connecting cycleways and footpaths where development involves new road infrastructure.

The application has submitted the Council's Sustainability Checklist, however the responses are high-level. The Council's Principal Climate Emergency Officer has stated that further information is required and this should be obtained through planning conditions: showing detailed plans outlining how the sustainability approach will be adopted and influenced in the choice of materials and construction techniques; and how embodied carbon emissions will be greatly reduced outlining a range of potential mitigation actions that will be undertaken; and the use of a recognised sustainable construction assessment standards. Planning conditions are recommended to ensure that the proposed development is acceptable in terms of carbon emissions and sustainability.

The proposal is considered, subject to the aforementioned planning conditions, to comply with Policies SS14 and ES1 of the Local Plan, Policy PNP1(f) of the Neighbourhood Plan, and the guidance contained within the NPPF.

10. Designing Out Crime

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

The application is supported by a Crime Prevention Statement. The Police Designing-Out Crime Officer has been consulted on the application and has provided a number of recommendations regarding bollards, CCTV, materials to prevent graffiti, and cycle stands. The Officer has commented that additional information is needed around CCTV due to the area suffering from anti-social behaviour and a planning condition is recommended

to secure such. Subject to the aforementioned planning conditions, the proposal is considered to generally accord with Policy SS11 of the Local Plan and Policy PNP1(g) of the Neighbourhood Plan.

Sustainability

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

The Economic Role

The proposed coastal defences would provide existing and future businesses with protection from coastal flooding for 100 years. There would be economic benefits to the construction industry from the proposed development. 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 proposed development would provide BS 8300:2018 step-free access routes where possible and 1:21 slopes to ensure the seafronts are accessible for all. The proposal includes improved cycle routes to provide legibility and safety. The proposal includes elements of public realm to provide more opportunities for social interaction. 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. The proposed development will significantly reduce the risk of coastal flooding to Paignton and Preston. It is concluded that the environmental impacts of the development weigh positively 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 not CIL liable.

S106:

Not applicable.

EIA/HRA

EIA:

The development has been screened. 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 subject to the planning conditions contained within this report, in accordance with advice received by Natural England and Devon County Council acting as the Council's Ecological Advisor.

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 protect and enhance a superb environment, as well as responding to climate change. The Development Plan recognises that climate change and the opportunities it presents for Torbay will have a very real impact on the environment, including flood defence works. The proposed development would provide critical infrastructure that would significantly reduce the risk of coastal flooding to Paignton and Preston. The impacts of the scheme are not unacceptable, subject to the planning conditions detailed below.

Conclusions and Reasons for Decision

The proposed development is a crucial piece of infrastructure that will provide essential flood resilience for Paignton, there are no Development Plan policies indicating that the proposal is not acceptable in principle.

The impacts upon the character of the area, landscape, heritage assets, amenity of neighbouring residential occupiers, highways, ecology and flood risk have been assessed and are considered to be acceptable.

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

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

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

Officer Recommendation

Approval: subject to;

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

Planning Conditions

1. Phasing Plan

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

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

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

2. Construction Method Statement

Prior to the commencement of development of a phase, including site preparation and vegetation clearance works, a site specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include, but not be limited to:

- a) A timetable of works.
- b) Procedures for maintaining good neighbour relations including complaint management.
- c) The parking of vehicles of site operators and visitors.

- d) Loading and unloading of plant and materials.
- e) Storage of plant and materials used in constructing the development.
- f) Siting of temporary containers.
- g) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- h) Wheel washing facilities.
- i) The adoption and use of the best practicable means to reduce and control the emission of dust and other airborne pollutants and dirt during construction.
- j) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- k) The adoption and use of the best practicable means to reduce and control noise.
- l) Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- m) Construction working hours from 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 on Saturdays and at no time on Sundays or bank holidays. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- n) Details of how lighting will be controlled during the construction phase of development.

The approved Statement 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 with regards to construction traffic and the amenities of surrounding occupiers during the construction of the development further to Policies TA2 and DE3 of the Adopted 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.

3. Construction Traffic Management Plan

Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Traffic Management Plan shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.

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

This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

4. Storage/Management of Machinery and Materials

Notwithstanding the approved Pollution Prevention Plan, prior to the commencement of any development hereby approved, details of the implications of the site being exposed

to inclement weather, high winds and flooding relating to the storage and management of machinery and materials and including monitoring preventative mitigation and remediation measures shall be submitted to and approved in writing by the Local Planning Authority. The details shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

This pre-commencement condition is required to protect local amenity, highway safety and the marine environment prior to potentially impacting working commencing.

5. Tree Protection Plans

Notwithstanding the submitted information, no development (including ground works) or vegetation clearance works shall take place in each approved phase of the development until a Tree Protection Plans 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 shall 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 Adopted 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.

6. Pre-Commencement Arboricultural Site Meetings

Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The outcome of the meeting shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.

Reason: To protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Adopted Torbay Local Plan 2012-2030.

These works are required prior to commencement in order to ensure the natural environment is protected during the development period.

7. Carbon Emissions

Notwithstanding the submitted information, prior to the commencement of the development hereby approved, details of how the development will minimise carbon emissions shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, but not be limited to:

- Benchmarking against similar infrastructure schemes;
- Whole carbon life cycle assessments (WLCA) at the pre- and post-construction phases to demonstrate how carbon emissions have been reduced; and
- Detailed plans outlining how embodied carbon emissions will be reduced. Particular focus should be paid to the areas of the WLCA with the greatest embodied carbon emissions (Capital Carbon A1 – A5 and Refurbishment carbon (B5) and details should outline a range of mitigation actions that will be undertaken.

The development shall be carried out in accordance with the approved details and shall be retained thereafter.

Reason: In the interests of reducing carbon emissions and promoting sustainable development, and in accordance with Policies SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

This pre-commencement condition is required to ensure carbon emissions are kept to a minimum.

8. Sustainability

Notwithstanding the submitted information, prior to the commencement of the development hereby approved, details of the sustainability approach for the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, but not be limited to:

- How a sustainability approach will be adopted and influence the choices of materials and constructions techniques to help create a sustainable development and reduce environmental impacts including carbon emissions; and
- The use of a recognised sustainable construction assessment.

The development shall be carried out in accordance with the approved details and shall be retained thereafter.

Reason: In the interests of promoting sustainable development, and in accordance with Policies SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

This pre-commencement condition is required to ensure a sustainable form of development.

9. Roads and Footpaths

Notwithstanding the approved plans, no development shall take place on each approved phase of the development until the following details, relevant to the area within that phase, have been submitted to and approved in writing by the Local Planning Authority:

- a) A specification of the type of construction for the roads and footpaths, including all relevant horizontal cross-sections and longitudinal sections showing the existing and proposed levels, together with details of materials, sightlines and kerbs, street lighting and the method of disposing surface water;
- b) A programme for constructing the roads and footpaths; and,
- c) Details and specifications for the proposed works to parking spaces, including final finished levels and layout of spaces.

The development shall thereafter be carried out in accordance with the approved details and shall be permanently retained thereafter.

Reason: To ensure that the roads/footpaths are constructed to an appropriate standard in the interests of highway safety and to create a safe and attractive environment, to accord with Policies DE1 and TA2 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

10. Management Strategy

Prior to the completion of the development hereby approved, the proposed management strategy for the future management and maintenance of the development including all areas of public realm, external space and soft landscaping within and around the development shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of any management company proposed and its terms of reference and shall be managed thereafter for the lifetime of the development in accordance with the approved Management Strategy.

Reason: To ensure that the public realm and landscaped areas are subject to a future management and maintenance agreement to ensure that they are adequately maintained, in the interests of visual amenity and in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

11. External lighting

Notwithstanding the approved plans, prior to the installation of any external lighting in each approved phase, full details including design, siting and type/amount of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and retained as such thereafter.

Reason: To safeguard the amenity of the locality and the marine environment, in the interests of residential amenity and biodiversity in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030.

12. Bird Nesting Season

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

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

13. Biodiversity Compensation and Enhancement Measures

Prior to the completion of the development hereby approved, the compensation and enhancement measures to enhance biodiversity in and around development, as detailed within the submitted and approved ecology report, in order to deliver a net gain for biodiversity, shall be implemented in full and maintained thereafter for the lifetime of the development.

Reason: To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and advice contained within the National Planning Policy Framework.

14. Street Furniture

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

Reason: In the interests of design and in order to accord with Policy DE1 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

15. Coastal Defence Wall

Notwithstanding the approved plans, prior to the installation of the coastal defence wall in each approved phase, details of the proposed cladding materials shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the finish, source(s), type and size of materials proposed to be used in the cladding.

A sample panel on each seafront shall be constructed on site for inspection and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.

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

Reason: In the interests of design, in order to accord with Policies DE1, ER1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1, PNP1(c), PNP4 and PNP15 of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

16. Public Shelters

Prior to the repair or refurbishment of the existing public shelters, a detailed method specification of the repair, refurbishment and/or repurposing of the shelters shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out fully in accordance with the approved method specification.

Reason: In the interests of design, visual amenity and to protect non-designated heritage assets, in order to accord with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1 and PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

17. Method of Construction – Coastal Defence

Prior to the construction of any coastal defence wall(s) within an approved phase, a detailed construction/method statement of how the coastal defence wall(s) shall be constructed shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out fully in accordance with the approved construction/method statements.

Reason: To reduce the risk of flooding and in the interests of design, in order to accord with Policies DE1 and ER1 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1(c), PNP4 and PNP15 of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

18. Flood Gate Details

Notwithstanding the approved plans, prior to the installation of the flood gates in each approved phase, details (including siting/alignment, type and appearance including materials/finishes and operation) of the proposed flood gates in the area of that relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The approved flood gate details shall be implemented prior to the completion of the approved phase and shall thereafter be retained and operated in strict with the approved details.

Reason: To reduce the risk of flooding and in the interests of design, in order to accord with Policies DE1, ER1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1, PNP1(c), PNP4 and PNP15 of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

19. Hard Surfacing Materials

Notwithstanding the approved plans, no development shall take place in each approved phase which involves the provision of **Page 50** or other hard surfacing materials until

details of the materials to be used in the relevant area have been submitted for the prior written approval of the Local Planning Authority. Thereafter the works shall be fully implemented in accordance with the approved details prior to the completion of the development hereby approved. The details for approval shall include a detailed scheme of:

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

Reason: In the interests of design and in order to accord with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1 and PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

20. 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 Adopted Torbay Local Plan and advice contained within the National Planning Policy Framework.

21. Soft Landscaping

Notwithstanding the submitted plans, prior to the completion of each approved phase of the development hereby approved a soft landscape scheme shall be submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of that approved phase of the development. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of a similar size and the same species.

Reason: In interests of visual and residential amenity and in accordance with Policies C4, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

22. Hard Landscaping

Notwithstanding the submitted plans, prior to the completion of each approved phase of the development hereby approved, the hard landscaping shall be implemented in accordance with a scheme that has been first submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- a) Boundary treatments, including any walls, bunds, embankments and/or fences;
- b) Drainage details for any impermeable surfaces, including soakaway position, size, and specification; and
- c) A detailed programme of implementation.

All hard landscaping works shall be permanently retained thereafter in accordance with the approved details.

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

23. CCTV

Notwithstanding the approved plans, prior to the installation or relocation of the CCTV columns within each approved phase of the development hereby approved, full details of the CCTV provision for that phase shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include the siting and the technical specification details of the cameras, direction of view and their external appearance/colour. The approved measures shall be fully installed in accordance with the approved details prior to the completion of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1 (g) of the Paignton neighbourhood Plan.

24. Geopark Café

Notwithstanding the approved plans, prior to the demolition of the existing Geopark Café suitably scaled detailed drawings of the proposed Geopark Café shall be submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, floorplans, elevations (including cladding materials), sections, finished floor levels, and ridge heights. The development shall be carried out only in accordance with the approved detailed drawings and shall be retained thereafter for the lifetime of the development.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

25. Geopark Café Removal of Existing Kiosk

The Geopark Café's existing kiosk shall be permanently removed from the site prior to the new kiosk hereby approved being brought into use.

Reason: To ensure a satisfactory form of development in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

26. Geopark Café Use Class

The Geopark Café development shall at all times be used for the purposes of the sale of food and drink to be consumed off the premises (take away sui generis use), and for no other use notwithstanding the provisions of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking said Orders.

Reason: To secure an appropriate form of development in accordance with Policies DE1, DE3, SS4 and TO1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(b) of the Adopted Paignton Neighbourhood Plan 2012-2030.

27. Geopark Café Waste Storage

Prior to the new Geopark Café's first use the waste storage facilities hereby approved shall have been implemented and made available for the use detailed. The facilities shall hence be maintained for such purposes at all times thereafter.

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

28. Flood Risk Assessment

Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 50% for climate change unless an alternative means of surface water drainage is submitted to and approved in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be occupied or brought into use until the approved drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(i) of the Adopted Paignton Neighbourhood Plan 2012-2030 and the guidance contained in the National Planning Policy Framework.

29. Pollution Prevention Plan

The development shall proceed in full accordance with the submitted and approved Pollution Prevention Plan (ref: 3095 Pollution Prevention Plan). The approved Pollution Prevention Plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework

30. Construction Environmental Management Plan

The development shall proceed in full accordance with the submitted and approved Construction Environmental Management Plan (CEMP). The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

31. Waste Management Plan

The development shall proceed in full accordance with the submitted and approved Waste Management Plan. The approved Waste Management Plan shall be adhered to and implemented throughout the construction and operational phases of the development, strictly in accordance with the approved details.

Reason: To secure a satisfactory form of waste management in accordance with Policy W1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

Informative(s)

1. 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.
2. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:
 - on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
 - on or within 16 metres of a sea defence

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

In this instance there will be a requirement to obtain flood risk activity environmental permits for works within 8m of the culverted 'Main' rivers that falls within the physical scope of the scheme.

Relevant Policies

Development Plan Relevant Policies

Torbay Local Plan

C2 – The Coastal Landscape

C3 – Coastal Change Management

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 - Flood Risk

ER2 - Water Management

ES1 – Energy

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in Favour of Sustainable Development

SS7 – Infrastructure, Phasing and Delivery

SS8 – Natural Environment

SS10 – Conservation and the Historic Environment

SS11 – Sustainable Communities

SS14 - Low Carbon Development and Adaption to Climate Change

SDP2 – Paignton Town Centre and Seafront

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

TO1 – Tourism, Events and Culture

Paignton Neighbourhood Plan

PNP1 – Area Wide

PNP1(b) – Local Green Space

PNP1(c) – Design Principles

PNP1 (f) – Towards a Sustainable Low-Carbon, Energy-Efficient Economy

PNP1(g) – Designing Out Crime

PNP1(h) – Sustainable Transport

PNP1(i) - Surface Water

PNP4 – Seafront

PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area

PNP15 – Flood and Sea Defences

| | |
|---|---|
| Application Site Address | Seabury Hotel 11 Manor Road Torquay TQ1 3JX |
| Proposal | Demolition of existing hotel building and erection of 14 residential apartments, and associated parking and landscaping. |
| Application Number | P/2023/0721 |
| Applicant | 8 Tech Homes Ltd |
| Agent | McMurdo Land Planning and Development |
| Date Application Valid | 15.08.2023 |
| Decision Due date | 14.11.2023 |
| Extension of Time Date | 28.06.2024 |
| Recommendation | Refusal for the reasons given at the end of this report. Final drafting of these reasons, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director responsible for Planning, Housing and Climate Emergency. |
| Reason for Referral to Planning Committee | Major Development. |
| Planning Case Officer | Emily Elliott |



Site Details

The site is occupied by a Victorian Villa and its curtilage, sited at the corner of Manor Road and Stanley Road, Torquay. While the original building dates from 1830s-1860s, it has been extended by way of a number of more recent extensions that detract from its historic character to some extent. The established hotel use has not operated since the COVID pandemic.

The site is located within the St Marychurch Conservation Area. The St Marychurch Conservation Area Appraisal (CAA) does not identify the subject property as a key building within the conservation area, but draws attention to the prominent stone walls and mature trees along the plot boundaries. The site is in proximity to a Grade II listed building, namely No.205 St Marychurch Road which is opposite the site on the north-western side of Manor Road. The site is also located within Flood Zone 1, which is a Critical Drainage Area. The site is located outside of, but around 200 metres to the northeast of, a Community Investment Area, and is located outside of the Core Tourism Investment Area.

Description of Development

This is a full application for the demolition of the existing hotel building and associated ancillary buildings and the erection of 14no. 2-bed residential apartments with associated parking and landscaping.

The apartment block is proposed central to the site, is a single L-shaped building and covers a footprint of approximately 36 metres long by 21.5 metres deep at the widest parts. The proposed apartment block would be three storeys with a turret corner element. The base material is white render with the intermittent use of grey render and a small element of stone facing to the south western elevation, under a hipped slate roof.

The vehicular access is maintained within the existing location which is accessed from Manor Road. In terms of car parking the development provides 14no. spaces, which is located within the north western section of the application site. This presents 14no. spaces for the proposed 14no. units which remain unassigned and no provision of visitor spaces.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF);

- Planning Practice Guidance (PPG);
- Published Standing Advice;
- Heritage setting, within a Conservation Area (St Marychurch) and within the setting of the No.205 St Marychurch Road (Grade II listed building).
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990: Sections 66 and 72; and
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

Planning Application: P/2022/0908: Demolition of the existing hotel building, erection of a self contained block of 21 flats with basement parking and associated works. Withdrawn 26/10/2022.

Planning Application: P/2021/0520: Change of use from hotel to 12 flats, including the demolition of existing extensions, and the erection of a new extension and new building. (as amended). Approved 18/03/2022.

Planning Application: P/2013/0909: Extend time limit (re P/2010/0736) First Floor Extension With Pitched Roof Over; Extended Reception Area. Approved 17/09/2013.

Planning Application: P/2010/0736: Extend time limit - first floor extension with pitched roof over; extended reception area - application P/2007/1576/PA. Approved 20/08/2010.

Planning Application: P/2007/1576: First Floor Extension With Pitched Roof Over; Extended Reception Area. Approved 06/11/2007.

Planning Application: P/1998/1187: Alterations And Erection Of Extension To Form Conservatory To Existing Lounge At Rear (As Revised By Plans Received 14/9/98). Approved 22/09/1998.

Summary of Representations

12 representations, 2 support, 10 objecting. Key issues as follows:

Comments in support include:

- It provides houses.
- It provides facilities.
- It provides jobs.
- It removes an eyesore.
- Residential amenity.
- Impact on the local area.

Concerns include:

- Impact on the local area.
- Not in keeping with the local area.

- Impact on the conservation area.
- Sets a precedent.
- Drainage.
- Noise.
- Overdevelopment.
- Privacy/overlooking.
- Traffic and access.
- Trees and wildlife.
- Loss of tourist accommodation.

Summary of Consultation Responses

Torquay Neighbourhood Forum (Comments dated 29.10.2023):

The Applicants have engaged with the Steering Group, and presented their proposals at the Steering Group Meeting on 10 October 2023. The Forum has noted that a number of Objections have been submitted regarding the design. The current building, not being Listed, has accumulated some ugly extensions around the Victorian core. The Steering Group considered that the proposed design was an improvement over previous proposals, and probably represents the best compromise by maintaining some characteristics of the Victorian style while providing sufficient dwellings to be viable.

Seabury Hotel is outside the Core Tourism Investment Area (CTIA). In view of the housing shortage in Torbay, the Forum accepts the conversion to residential use.

Compliance with Development Policies has been assessed in the attached Policy Checklist, and the proposal complies with the majority of Policies.

In conclusion, the Forum supports the proposed development.

Torbay Council's Strategy & Project Management Officer (Comments dated 20.10.2023):

1. Housing delivery and efficient use of land

In the context of a lack of a five year supply of deliverable housing sites, Paragraph 11(d) of the NPPF sets up a 'tilted balance' in which permission should be granted unless:

- (i) The application of policies in the NPPF that protect areas or assets of particular importance (*which includes designated heritage assets including Conservation Areas and Listed Buildings*) provides a clear reason for refusing the development, or
- (ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The NPPF paragraphs on 'Conserving and enhancing the historic environment', together with Policy SS10 of the Local Plan, are therefore an important part of the assessment of the application. If there is a clear reason for refusal relating to the proposal's impact on a designated heritage asset, then the 'tilted balance' is not engaged. Matters of design and heritage impact are detailed Development Management matters that I will leave to your assessment.

Paragraphs 119 to 125 of the NPPF (“Making effective use of land”) are also relevant to this application. In particular: Planning decisions should:

- Paragraph 120(c): “give substantial weight to the value of using suitable brownfield land within settlements for homes...”
- Paragraph 124: “support development that makes efficient use of land, taking into account:
 - (a) “the identified need for different types of housing ... and the availability of land suitable for accommodating it”
 - (d) “the desirability of maintaining an area’s prevailing character ... or of promoting regeneration and change”
 - (e) “the importance of securing well-designed, attractive and healthy places”.
- Paragraph 125: “... Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions ... ensure that developments make optimal use of the potential of each site.”

Setting aside matters of design, scale and massing which are detailed Development Management matters, the quantum of development proposed for the site (14 apartments on a 0.18ha site) appears to be generally suitable in relation to the intent of the abovementioned paragraphs which seek to promote the efficient use of brownfield land for housing delivery.

Policy TS4 of the Torquay Neighbourhood Plan states that development proposals for brownfield sites will be supported, provided there are no significant adverse impacts, having regard to other policies in the plan. Impacts would therefore need to be significant in order for brownfield development to not gain support from this policy.

Policy H1 and SS12 of the Local Plan provide support for housing delivery on sustainably located sites within the built up area, while Policy SS13 supports the maintenance of a five year supply of deliverable housing sites.

Weight therefore needs to be given to housing delivery and to making efficient use of a brownfield site, but this needs to be weighed against any potential heritage harm identified as part of your assessment of the proposal’s impact on the St Marychurch Conservation Area and the setting of nearby listed buildings, if applicable.

2. Principle of change of use from tourist accommodation to residential

Policy TO2 of the Torbay Local Plan states that, outside Core Tourism Investment Areas, the change of use of holiday accommodation will be permitted where:

1. The holiday character of the area and range of facilities and accommodation offered are not undermined; and,
2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TT1 of the Torquay Neighbourhood Plan states that change of use from tourist accommodation to residential on sites outside the Core Tourism Investment Areas will be supported subject to, amongst other things, the site being of limited significance to the tourism setting, or the site lacking viability for tourism.

The previously approved application P/2021/0520 included viability reports which provide a reasonable basis for supporting the proposed change of use from holiday accommodation to residential in accordance with the criteria set out above. Although 12 months marketing data is not provided, other evidence pursuant to Policy TT1 of the TNP is provided. The character in the vicinity of the site is more defined by residential properties than by holiday accommodation, and the site is somewhat separate from the important tourism facilities and accommodation at Babbacombe Downs (which, unlike the application site, is designated as a Core Tourism Investment Area). Although the hotel has clearly received investment in the past, the type of accommodation and facilities appear to be available elsewhere, closer to key tourism locations. Given the site's location, the hotel's performance in recent years, and the pipeline of new hotels opening in the wider area, it appears unlikely that the loss of the hotel would adversely affect the tourism character of the area or the range of accommodation offered in Torbay. The proposed change of use would bring about public benefits in the form of housing delivery (in the context of a lack of a five year supply of deliverable housing sites).

In addition, Policy TT2 of the Torquay Neighbourhood Plan states that changes of use away from tourist accommodation within Conservation Areas will be supported in principle (subject to other policies) to ensure a sound future for such heritage assets. This policy therefore offers support in instances where a change of use helps enable the retention of a heritage asset, similarly to NPPF Paragraph 197a (which relates to putting heritage assets to viable uses consistent with their conservation). Given that this proposal is for the demolition of the building, this application does not benefit from the support offered by this policy. For clarity, the proposal is not in conflict with this policy (as the policy does not say that changes of use will *only* be supported where needed to enable the retention of a heritage asset), but rather should be seen as neutral with respect to this policy.

I therefore raise no objection to the principle of the proposed change of use.

3. Sustainable communities

Policy SS11 of the Torbay Local Plan seeks to secure development that contributes to improving the sustainability of existing and new communities within Torbay by, amongst other things, enhancing residents' quality of life, providing a good standard of residential accommodation, and delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

The proposal is for the brownfield development of 14 flats all of which would be 2- bedroom flats. The proposal therefore avoids an over-proliferation of small (1-bed) self-contained flats, albeit that the proposal does not provide much of a range of flat sizes. The proposal appears to be broadly consistent with the intentions of Policy SS11. Residential amenity and the quality of the living environment provided by the development (Policy DE3, Policy SS11) is a detailed Development Management matter that I will leave to your judgement. It may be worth

considering, however, the quality of living environment afforded to future occupants of Flats 3, 7 and 13 which are effectively single-aspect and north facing.

In this location, the use of the site for non-self-contained residential accommodation (HMOs) would amount to an overly intensive use of the site with the potential for negative impacts on neighbourhood amenity, and the exacerbation of existing social and economic deprivation. Therefore, if the application is supported, a condition of approval should be included requiring that the flats be used solely for C3 use and not for C4 use.

4. Drainage

As a policy team we are aware of the growing importance of reducing surface water drainage so as to limit the occurrence of combined sewer overflows. I note that the proposal mentions the use of permeable paving for the parking area; if the application is supported, a condition to secure this is recommended.

5. Low carbon development

As part of the assessment of the proposal in relation to Policies ES1 and SS14 of the Local Plan, the impact of the loss of embodied carbon due to the demolition of the building should be considered. I note that the submitted Energy Statement appears to be silent on this. Any operational benefits arising from positive elements of the design (such as the proposed use of air source heat pumps) will need to be weighed against the loss of embodied carbon. Any reusable building materials would need to be salvaged from the demolition.

6. CIL/s106

As per the CIL Charging Schedule, the proposed development is liable for CIL at a rate of £70 per sq. m of chargeable floor space.

Torbay Council's Strategy & Project Management Officer (Comments dated 09.02.2024):

I have reviewed the additional information submitted by the applicant on 17 January 2024 and I consider the policy consultation response below to remain up to date. Since the response below, the NPPF has been updated and a written ministerial statement was issued on 19 December 2023. In broad terms, both appear to demonstrate to some extent the Government's additional emphasis on brownfield development. The 2022 Housing Delivery Test result has also been issued (Torbay = 55%). The presumption in favour of sustainable development is applicable (both as a result of Torbay's housing land supply position and housing delivery test result), unless your assessment of the application identifies a clear reason for refusal relating to a footnote 7 constraint (which includes designated heritage assets). In addition, the changes to Paragraph 14 of the NPPF (Dec 2023) offer the Torquay Neighbourhood Plan protection until June 2024.

As a side note in addition to the matters raised below, Policy SS5 of the Local Plan and the 2022 Planning Contributions and Affordable Housing SPD both seek the payment of loss of employment contributions in instances such as this. I believe that this was suggested in a planning policy consultation response to application P/2021/0520, although I note that the application was subsequently approved without the said contribution. Naturally any potential planning contribution needs to meet the statutory tests of lawfulness set out in Regulation 122

of the CIL Regs and Paragraph 57 of the NPPF (Dec 2023), and this is a matter for the case officer to consider as part of the planning balance and alongside all other material considerations.

Historic England (Comments dated 14.09.2023):

Significance

The core of the former Seabury Hotel is a mid-nineteenth century villa, one of many built in the area as it was developed from farmland into a suburb of Torquay. It is within the St Marychurch conservation area, and as the conservation area appraisal sets out, the Victorian character of the area is **fundamental** to its character. The villa is a typical example of its type, with stucco elevations, sash windows, a Welsh slate roof, and generous grounds, bounded by characterful walls in local stone. Like many villas within the conservation area, it has had a number of insensitive twentieth century extensions, which have masked its character and caused harm to the conservation area. However, it is still possible to recognise the core historic villa at the heart of the site, and it still makes a limited contribution to the conservation area. It is within character area 3 of the conservation area, which is summarised in the conservation area appraisal as '19th century villas'.

Impact

It is proposed to demolish all the buildings on the site, including the historic villa, and redevelop with a three storey residential building, in a Victorian style, with rendered walls, portrait shaped windows, an octagonal corner tower, and a degree of articulation. The loss of the historic villa would cause harm to the conservation area. Despite its insensitive additions, it still makes a contribution to the conservation area, being legible as one of the historic villas that are fundamental to the character and interest of this part of the conservation area. The scale of the new building is uncharacteristic of the villas in this part of the conservation area, as is the ratio of building to garden area. While the Victorian style proposed does in theory respond to the character of the conservation area, the massing and detailing proposed is unconvincing. The paucity of chimney stacks, the use of semi-circular window heads over square-headed windows, and the elephantine scale of the building compared to the original villa are just a few of the reasons why the proposed design fails to be a convincing evocation of a Victorian villa.

Consent was given by your Council for a scheme that would retain the core of the villa, remove the unsightly later extensions, and replace them with new extensions (P/2021/0520). Historic England were not consulted on this application. However, we note that the approved scheme was respectful of the remaining elements of the villa, introduced new build at a sympathetic scale, allowed the villa to retain its primacy in views from the street, and did not cause harm to the conservation area's character. Had we been consulted we would not have raised concerns.

Policy

Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (National Planning Policy Framework (NPPF), paragraph 189).

The conservation of heritage assets should be given great weight in decision making (NPPF, paragraph 199). The incremental erosion of the Conservation Area through loss of buildings

that contribute positively to its character and appearance does not conserve it as a heritage asset and is harmful. Where harm is caused this must be clearly and convincingly justified (NPPF, paragraph 200).

It is for your authority to consider if the harm that we have identified can be balanced against public benefit (NPPF, paragraph 202). We draw your attention to the fact that an alternative scheme that would generate no harm has been consented. Conflict between the conservation of heritage assets and any aspect of development proposals should be avoided or minimised where possible (NPPF, paragraph 195).

Position

Historic England considers that the complete demolition of the former Seabury Hotel would cause harm to the St Marychurch Conservation Area (a designated heritage asset). It is one of the Victorian villas laid out in spacious grounds that are fundamental to the character of the conservation area, even when degraded by inappropriate extensions. It is suggested that the previously consented scheme that would have retained and restored the villa with new build in the grounds would not be viable. The viability study should be given careful scrutiny, but if your Council agrees with its conclusions, we suggest that retention of the villa with a larger but well-designed separate new build element would potentially be less harmful to the conservation area than the proposed scheme. The St Marychurch conservation area has poor prospects if its characteristic Victorian villas are to be replaced with unconvincing and overscaled imitations. The proposal as a whole does not preserve or enhance the Conservation Area.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 189-202 of the NPPF.

In determining this application, you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Devon County Council's Archaeologist & Historic Environment Manager (Comments dated 11.09.2023):

I have no comments to make, as there does not appear to be any impact on any sites or features of archaeological interest.

The Victorian Society (Comments dated 13.10.2023):

Seabury Hotel is a historic building within the St Marychurch Conservation Area. The area was developed c1860 and although the building has undergone much alteration its form and some detail is recognisably mid-19th century. Therefore, it makes some contribution to the character and understanding of the Conservation Area.

This proposal would see the demolition of the existing historic building and its replacement with no.14 apartments, rising to 4 storeys and designed in a contemporary idiom. This would harm the significance of the Conservation by introducing a building whose scale and design is out of character with surrounding historic buildings, it would also negatively impact the setting of the Grade II listed Berkshire Court that neighbours the site. The Victorian Society understand that an approved application proposed to retain some of the historic building on the site, with new development respecting the existing scale. This was a far more sensitive response to the site and character of the Conservation Area and we recommend that this is pursued.

The NPPF states: *'206. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.'* This proposal would not enhance or better reveal the significance of the Conservation Area, therefore we recommend its refusal and object to the application.

Historic Buildings and Places (Comments dated 21.09.2023):

We have concerns with the application due to the impact the proposal would have on the St Marychurch Centre Conservation Area.

The area around Manor Road was developed around the 1860s and while a lot of change has occurred within the CA, the general character is that of detached and semi-detached 19th century villas set within large garden plots. One of these villas is at the core of the Seabury Hotel, and while several poorly considered extensions were added in the mid C20, the original villa is still discernible.

The previous approved scheme for this site (application P/2021/0520) demolished those later additions and constructed two new elements, a modest extension to the villa and a separate apartment building, achieving a total of 12 apartments. While it was disappointing that elements of the original submitted design were lost, such as the hipped roof forms, the overall massing was generally more appropriate for the conservation area.

This current scheme proposes complete demolition, including the original villa, and construction of a single apartment block. The design, length of the building and the additional massing without spacing between the different elements is somewhat out of scale with the characteristic villa form within the CA. The loss of the original villa within the CA would further harm its historic interest and, surprisingly, the additional bulk and scale of the proposed new build compared to what is already approved only achieves an additional 2 apartments.

The argument that it is not a non-designated heritage asset is merely a distraction from the fact that so many Victorian villas have been lost or disfigured within the St Marychurch Centre Conservation Area. The approved scheme offered an opportunity to make a positive contribution to the CA by restoring the original villa and this should be the basis for any new development on this site. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability

of preserving or enhancing the character or appearance of conservation. Para 206 of the NPPF advises that new development is encouraged but must 'enhance or better reveal' the significance of the CA, stating:

'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.'

Further, chapter 12 of the NPPF (2021) seeks to achieve high quality places. Paragraph 126 states: *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'* Paragraph 130 – in part – goes on to state:

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

Recommendation: Submission of amended plans HB&P acknowledges the opportunities to regenerate and redevelop this site, however, the priority should be to ensure any new development is sensitive to the historic environment and enhances the conservation area. HB&P therefore recommends that an appropriate scheme is prepared that is sympathetic to the original villa on the site as well as the context of the local conservation area.

Torbay Council's Principal Historic Environment Officer (Comments dated 08.03.2024):
Relevant Policy

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 66 (1) of the same act states that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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".

This statutory requirement needs to be considered alongside relevant heritage guidance contained in the National Planning Policy Framework (2023) which requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (Para 201).

Paragraph 203 goes onto to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 considers that ‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’.

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’ (Para 206).

Paragraph 208 adds that ‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’.

With regards to non-designated heritage assets, paragraph 209 advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Should a heritage asset be lost either wholly or in part, paragraph 210 requires local planning authorities to take all reasonable steps to ensure that the new development will proceed after the loss has occurred.

Finally, paragraph 212 of the NPPF states that Local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favorably.

In terms of the Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policy SS10 and HE1 (Listed buildings) of the Local Plan).

Other relevant Local Plan policies for this application are Policy TO2 which states specifically that “where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form.....A high priority will be given to restoring the character and appearance of buildings within conservation areas”.

With regards to the Torquay Neighbourhood Plan, Policy TH8 states that development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

Policy TT2 also has some relevance which states that changes of use away from tourist accommodation within Conservation Areas will be supported in principle (subject to other policies) to ensure a sound future for heritage assets. This policy therefore offers support in instances where a change of use helps enable the retention of a heritage asset, which is not the case with the proposed development.

Significance of Identified Heritage Assets:

With regards to heritage assets, the site is within the St.Marychurch Conservation Area and the setting of a Grade II listed building - 205 St.Marychurch Road. The building itself can also be tested against established criteria to assess whether it can be classed as a non-designated heritage asset.

Designated:

St. Marychurch Conservation Area

The site sits within the St. Marychurch Conservation Area within an area designated as Character Area 3 – 19th century villas.

The original villa on the site was constructed in the mid-19th century and is a typical example of its type built upon former agricultural/scrub land along the western approaches to St.Marychurch as it expanded into a suburb of Torquay.

The building is set within generous grounds which is recognised as one of the special characteristics of the conservation area within the conservation area appraisal which states that “the layout and orientation of much of the villa developments gives rise to a well-founded air of spaciousness” and that on the most part the original scale and proportion of the villa development, mostly of two-storeys has been maintained.

The building itself has undergone insensitive alteration as a result of its conversion to a hotel in the later 20th century which has had a detrimental impact on its external and internal character and appearance, however, its original form and elements of architectural detailing remain legible and therefore its origins and contribution to the evolution and character of the area can still be read.

As a result, the building does make a positive contribution to the character and appearance of the St. Marychurch Conservation Area.

205 St Marychurch Road

This villa is believed to have been constructed in the 1840s and was designated as a Grade II listed building in 1975. It has demonstrable architectural and historic value and is recognised within the St. Marychurch Conservation Area Appraisal as having one of the few unspoiled frontages in the area.

Setting is defined in the NPPF as “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

The Planning Practice Guidance Notes that accompany the NPPF expand on this definition, stating: “The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

It is considered that with regards to no.205’s setting, the asset is experienced within its own curtilage and also from a public perspective along Manor Road which allows views of the principal elevation and from the rear from St. Marychurch Road.

The building can still be read as part of the mid-19th century development of this part of St. Marychurch and therefore its wider setting and relationship with neighbouring villas of a similar age does make a contribution to its significance.

The application site can be found directly opposite on the other side of Manor Road and although the building is set back within the plot and is partially screen by a row of mature trees, the listed building and the application site can still be seen together in context. It is clear that the two sites share a visual and historic relationship between each other and other villas along Manor Road.

As a result, it can be concluded that the application site does form part of the setting of the Grade II listed building.

Non-Designated Heritage Asset:

The building has undergone insensitive alteration during its conversion to a hotel in the mid to late 20th century, however, the original core of the villa still remains and is legible. Therefore, it can also be tested to be a potential non-designated heritage asset using Historic England’s established criteria:

| | |
|-------------------|---|
| Asset Type | Detached villa in generous grounds, formerly residential use now vacant hotel. The building has undergone various extensions to accommodate additional rooms and spaces associated with its hotel use. |
| Age | mid C19th |

| | |
|--|--|
| Rarity | Detached and semi-detached Victorian villas are typical for the area and share a number of characteristics with regards to architectural detailing and materials. However, each villa appears to have been individually designed for their specific plot along Manor Road. |
| Architectural and Artistic Interest | Although the building has been insensitively altered and extended, some original external and internal detailing remains, and the form of the original building can still be read. |
| Group Value | Forms part of an informal group with a number of other villas of a similar age along Manor Road which denote this period of Victorian expansion. |
| Historic Interest | Demonstrates the mid-19th century development of this area and the expansion of St. Marychurch and the rise of Torquay as a fashionable destination in which to live and visit. |
| Landmark Status | Prominent feature within the street scene but is not specifically recognised as being a landmark feature within the local area. |

Summary:

Although the building has been significantly altered as a result of its past conversion to a hotel, its original form and some areas of architectural detailing remain. The building has some architectural and historic interest and forms part of an informal group of buildings within the immediate area.

Additionally, the heritage value of the building and its contribution to the character of the local area could be further enhanced and revealed through its sensitive conversion back to residential use.

It can therefore be considered to be a non-designated heritage asset which has the potential to have its significance further revealed through the removal of unsympathetic alterations of the past.

Impact on Significance of Heritage Assets:

The following table identifies each major element of the proposals, the asset affected, the impact and identifies harm or enhancement:

| Heritage Asset | Proposed Works | Overall Impact | Harm/Enhancement/Neutral |
|---------------------------------|---|-----------------------|---------------------------------|
| Seabury Hotel - NDHA | Demolition and replacement of the Seabury Hotel | High | Harm |
| St.Marychurch Conservation Area | Demolition of the Seabury Hotel | Moderate | Harm |
| St.Marychurch Conservation Area | Construction of apartment building | Moderate | Harm |
| 205 St. Marychurch Road | Demolition of the Seabury Hotel | Low | Harm |
| 205 St. Marychurch Road | Construction of apartment building | Moderate | Harm |

As can be seen from the above table, the proposed development is considered to cause harm to a number of identified heritage assets.

The form and elements of architectural detailing of the original villa are still legible and therefore, as identified above, the building does make a positive contribution to the character and appearance of the St. Marychurch Conservation Area thereby warranting retention.

It is also currently considered that the demolition of the original villa lacks justification. The structural survey submitted in support of the application states that “although concealed for the most part, the original portion of the building appears in reasonable condition for its age and type”. It goes onto say that it is in fact the unsympathetic 20th century additions that are most at risk, stating “the standard of build quality in the more recent extensions is notably lower than the original villa, and is displaying signs of inherent defects within the construction.” Finally, the submitted report recognises that although the retention of the original footprint would potentially incur additional costs, it is considered feasible with an appropriately experienced contractor. It is appreciated that viability information has been submitted as part of the application which seeks to justify wholesale demolition and redevelopment. It is considered that this would require independent assessment to judge what weight can be given to this within the overall assessment of the proposals.

This being the case, based on the information currently available the loss of the villa lacks justification and will inevitably have a detrimental impact on the St.Marychurch Conservation Area as a designated heritage asset, which is characterised in this location by individual Victorian villas set within generous grounds.

In addition, even if the proposed demolition of the existing villa could be adequately justified, the replacement structure as proposed would be assessed to cause harm to the character and appearance of the conservation area as a result of its scale, massing, design and appearance.

The increased bulk of the building and the subsequent impact on the ratio of building to open space within the plot, its over scaled and needlessly busy design, the distinguishable difference in the detailing and more generally, its unavoidable inauthenticity would significantly undermine the contribution the site makes within the streetscape.

The proposed scheme would therefore be harmful to the character and appearance of the conservation area. It would also have a detrimental impact on the setting and significance of the Grade II listed building (205 St Marychurch Road) directly opposite the site.

Conclusions:

The wholesale demolition of the existing building would cause substantial harm (through complete loss of significance) to the Hotel Seabury as a non-designated heritage asset. This would also result in 'less than substantial harm' to the significance of the St. Marychurch Conservation Area and no. 205 St. Marychurch Road as a Grade II listed building.

As a result of the above, it is clear that the proposed development would cause clear harm to a number of identified heritage assets and that the proposals in their current form would neither preserve nor enhance the character or appearance of the identified conservation area. This being the case, the proposals are considered to be contrary to Policies SS10, HE1, TO2 and DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan which requires development to conserve and enhance the conservation area and to respect local character.

In line with the requirements of the NPPF, permission should be refused, unless it can be demonstrated that the harm caused can be outweighed by associated public benefits, whilst being mindful of the great weight which should be given to the conservation of heritage assets and the requirements of Section 66 (1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This would be a matter for the overall planning assessment of the proposals.

South West Water (Comments dated 14.09.2023):

South West Water is committed to eliminating sewer flooding particularly from foul and combined sewers to safeguard both the environment and householders. We request the proposed strategy for the disposal of surface water is in accordance with the National Planning Policy Framework.

The applicant must demonstrate how its proposed development will have separate foul and surface water drainage systems and not be detrimental to existing infrastructure, the public and environment.

You will need to demonstrate that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-

off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable): In all cases, where there is a risk of flooding the development will be made safe and flood risk not increased elsewhere.

1. Water re-use (smart water butts/rainwater harvesting etc.)

Provide written evidence as to why water re-use practises are not a viable option for your proposal.

2. Discharge into the ground (infiltration); or where not reasonably practicable,

Provide written evidence as to why Infiltration devices, including Soakaways, Swales, Infiltration Basins and Filter Drains do not meet the design standards as specified in either H3 Building Regulation standards for areas less than 100m². Soakaways serving larger areas must meet the design standard specified in BS EN 752-4 (para 3.36) or BRE Digest 365 Soakaway Design.

3. Discharge to a surface waterbody; or where not reasonably practicable,

Provide written evidence for refusal of discharge consent from owner of water body (Environment Agency, Local Authority, Riparian Owner etc)

4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,

Provide written evidence for refusal of discharge to drainage system (Highway Authority, Environment Agency, Local Authority, Private ownership)

5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

South West Water will carry out a hydraulic capacity review of the combined sewerage network before permission will be granted to discharge to the combined sewer.

Please note until we have seen the evidence as to why the applicant cannot discharge the surface water higher up the hierarchy their proposed discharge to the combined sewer is NOT permitted.

Torbay Council's Drainage Engineer (Comments dated 21.09.2023):

I would like to make the following comments:

1. As there is insufficient room on site for infiltration drainage the proposed drainage strategy for surface water run-off from the buildings is for a controlled discharge to the combined sewer system and the controlled discharge rate has been identified as 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area.
2. The developer has submitted a drawing showing the proposed drainage strategy together with hydraulic calculations for the surface water drainage design.
3. The drainage strategy drawing identifies manhole cover levels and invert levels, pipe diameters and pipe lengths however there is no drawing identifying the actual impermeable area discharging to each pipe length within the hydraulic model. This drawing is required in order that we can confirm that the data input to the hydraulic model matches the data included on the drawings.

4. The hydraulic modelling that has been submitted identifies that the surface water drainage system has been designed for the critical 1 in 100 year storm event plus 50% for climate change.

Based on the above comments, before this planning permission can be granted the applicant must supply details to address point 3 identified above.

Torbay Council's Drainage Engineer (Comments dated 17.04.2024):

Many thanks for forwarding the additional information. Based on the infiltration testing that has been carried out, the use of infiltration drainage is not feasible and therefore a controlled discharge to the combined sewer system will be acceptable, as identified in the previously submitted flood risk assessment.

As this planning application relates to 14 apartments and is classified as a major application, I expect to see the drainage design completed before planning was approved. We do not normally use planning conditions for surface water drainage on major applications.

As a result of the above, my previous consultation response for this application is still valid.

Torbay Council's Drainage Engineer (Comments dated 30.05.2024):

I can confirm that providing the surface water drainage is constructed in accordance with the drainage strategy, I have no objections on drainage grounds to planning permission being granted.

SWISCo's Senior Tree Officer (Comments dated 14.09.2023):

No objections to proposed development subject to planning conditions being applied in respect of tree protection and soft landscaping (tree planting).

Statutory Designations (Trees):

Tree Preservation Order –Not Applicable.

Conservation area – Applicable.

The application proposal includes the demolition of the existing hotel and removal of associated temporary and permanent structures. Rebuilding works are proposed on a reconfigured footprint within the curtilage of the property.

The existing property contains a number of variable quality trees and hedges. These have been identified in the BS5837 tree survey which supports this application.

The arboricultural report recommends the management and removal of trees within the property. I am satisfied that these works are reasonable and will not significantly impact the character or setting of the Conservation Area. Locally notable changes in appearance of the property are inevitable however.

The proposed pruning of T3 & T4 – I would advise the trees are reinstated into a cyclical pollarding regime without creating secondary pollard heads at higher points.

The Arboricultural Method Statement (Treecall Plan TC1 Ref: DS/77223/SC) clearly specifies the works and tree protection measures which are to be taken forward and their relative phasing within any construction programme. These works are also reasonable and adopt a precautionary approach to tree protection, enabling limited access to root protection areas in limited parts of the site in combination with ground protection measures.

The use of a pre-commencement planning condition is essential to the tree protection element of this project, if planning permission is granted. Enabling works (tree removal) may be undertaken prior to any tree protection being installed (fencing, ground protection), but any demolition or construction works need to be undertaken only when the operational areas are defined and constrained.

The proposed tree planting is confined to the boundaries of the site. The species selection is generally acceptable but is reliant on only four species (Oak, Crab Apple, Wild Cherry and Field Maple). My preference would be to include one or two other species including Midland Hawthorn and Rowan for diversity and varying flowering and fruit attributes.

If planning permission is granted:

1. Secure by pre-commencement planning condition the implementation of the works specified in Treecall Plan TC1 Ref: DS/77223/SC and in conjunction with the Arboricultural Impact Assessment & Method Statement (Treecall REF DS/77223/SC).
2. Apply a planning condition to secure the proposed tree planting (with any species revisions) as per Tree Call Plan TC2 (Ref: DS/77223/SC).
3. Apply a condition requiring arboricultural site monitoring and reporting to the LPA including records of checks for tree protection / ground protection during the construction and landscape phases.

SWISCo's Senior Tree Officer (Comments dated 13.02.2024):

I've had a look at the updated ecology and landscape comments which are acceptable in terms of details and specifications. The landscape scheme has already been covered in previous comments and I'm generally happy with the proposal.

SWISCo's Waste (Strategy & Performance) Team Manager (Comments dated 19.09.2023):

The specification for the underground recycling and waste storage is not compatible with domestic recycling and waste collections in Torbay. A vehicle with a crane lift is required to empty these containers, which SWISCo do not use for recycling and waste collections.

I cannot find any detail of how the waste management solution identified would be applied to the circumstances of this development to maximise the amount of recycling and make positive behaviour change easy for the residents.

I would like to see a detailed waste management plan for the operational life of the development, explaining how the services will be tailored to the development and demonstrating compatibility with the domestic collection service, provided by SWISCo on

behalf of Torbay Council. I would be keen to see this before a decision is made, rather than through a planning condition.

I would like to request waste management contributions for this development, in line with the table contained with the Council's Planning Contributions and Affordable Housing Supplementary Planning Document.

The Highway Authority (WSP: Comments dated 17.10.2023):

The site is currently accessed via Manor Road and this access is to be retained. It is unclear whether refuse vehicles are proposed to access the internal layout, or undertake refuse collections from Manor Road. This should be clarified by the applicant. Swept path analysis illustrating that access is possible for emergency vehicles (and refuse vehicles if applicable) to the site should be provided by the applicant.

Parking

Appendix F of the Torbay Local Plan details the parking provision to be provided, "1 car parking space per flat. Provision of secure and covered cycle storage for at least 1 cycle per flat.". The applicant has stated that 14 car and 14 cycle spaces are to be provided. The car spaces have been shown within the "Site Plan" drawing provided by the applicant. It is unclear whether any parking provision will be dedicated for use by disabled people and if so, these should be appropriately designed and illustrated on a site layout drawing. The Torbay Local Plan prescribes 10% of overall parking provision be designated for disabled use.

The Torbay Local Plan also states that "Electric vehicles and car clubs will be supported. 20% of available spaces should have electrical charging points". It is unclear whether electric vehicle charging facilities are to be provided and if so the location and quantum of these spaces. Further detail will be required confirming these details.

Confirmation as to whether residents will be assigned a specific car parking space respective to their dwelling is also requested from the applicant. On-street parking on Manor Road is generally at capacity and any visitor parking within the site would be welcomed by the Highway Authority.

The location of the secure, sheltered cycle store is shown on the "Proposed Ground Floor Plan" provided by the applicant, this is considered acceptable.

Refuse Collection

The application includes the proposal of underground waste containers. The specification for the underground recycling and waste storage is not compatible with domestic recycling and waste collections in Torbay. A vehicle with a crane lift is required to empty these containers, which SWISCo do not use for recycling and waste collections.

No detail has been provided of how the waste management solution identified would be applied to the circumstances of this development to maximise the amount of recycling and make positive behaviour change easy for the residents.

A detailed waste management plan for the operational life of the development is requested, explaining how the services will be tailored to the development and demonstrating compatibility with the domestic collection service provided by SWISCo on behalf of Torbay Council.

Trip Generation

The applicant has provided trip generation for this application, this is considered acceptable. It is not considered that the proposed development will result in a significant increase in generated traffic compared to the previous use.

Conclusion

Prior to recommendation the applicant will be required to provide the following:

- Vehicle tracking of emergency vehicles, and if applicable refuse vehicles, accessing the site and egressing in a forward gear;
- Further information regarding any assignment of car parking spaces and the inclusion of disabled and visitor parking, and electric vehicle charging; and
- A detailed waste management plan including information regarding how the waste management solution identified would be applied to the circumstances of this development.

The Highway Authority (WSP: Comments dated 14.05.2023):

Access and Refuse Collection

Previously, the Highway Authority stated that *'it is unclear whether refuse vehicles are proposed to access the internal layout, or undertake refuse collections from Manor Road. This should be clarified by the applicant. Swept path analysis illustrating that access is possible for emergency vehicles (and refuse vehicles if applicable) to the site should be provided by the applicant.'*

Drawing 13-PA03 (Vehicle Tracking 01) shows a Fire Appliance entering the site in a reverse movement. The Highway Authority are satisfied a Fire Appliance can enter the site, however the Planning Officer must review whether a Fire Statement / Strategy is required.

It remains unclear whether refuse collection vehicles are proposed to access the internal layout. The Highway Authority note a 'Bin Collection Area' is shown adjacent to the vehicle entrance, and is within an acceptable drag distance for on-carriageway collection from Manor Road. The applicant must confirm whether this is their proposed waste collection strategy.

Parking

Previously, the Highway Authority stated that:

'It is unclear whether any parking provision will be dedicated for use by disabled people and if so, these should be appropriately designed and illustrated on a site layout drawing. The Torbay Local Plan prescribes 10% of overall parking provision be designated for disabled use.'

'It is unclear whether electric vehicle charging facilities are to be provided and if so the location and quantum of these spaces. Further detail will be required confirming these details.'

The 06-PA03 B (Site Plan drawing) shows three of the 14 bays are to be allocated for EVs and two of the 14 bays are to be allocated for disabled users. The parking for both disabled users and EV charging is in line with Torbay parking guidelines.

However, the applicant has still not confirmed whether residents will be assigned a specific car parking space relative to their dwelling. EV Charging Provision must be provided in line with Building Regulations Part S Infrastructure for charging electric vehicles: Approved Document S - GOV.UK (www.gov.uk). (i.e. One active EV charger per dwelling).

CTMP

Should the proposed development be permitted, prior to any construction works at the site a Construction Traffic Management Plan will be required by way of Planning Condition to be submitted.

Conclusion

In conclusion, the Highway Authority wishes to raise an objection until the above issues have been resolved.

The Highway Authority (Comments dated 31.05.2023):

In summary, the response is an objection due to the insufficient information submitted by the applicant, specifically:

- Clarify in writing that refuse collection strategy and whether they are seeking for refuse collection to be undertaken from the public highway of Manor Road (i.e. as indicated however not stated by the positioning of the bin store near the vehicle access). NPPF Para 116D.
- Updated parking plans to be in-line with building regulations Part S https://assets.publishing.service.gov.uk/media/6218c5d38fa8f54911e22263/AD_S.pdf (i.e. 1 active EV charger per dwelling). NPPF Para 116e & 114c.

These required amendments are generally minor and the applicant should look to resolve prior to any decision.

Police Designing Out Crime Officer (Comments dated 25.08.2023):

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

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

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors

and windows Accredited Product Search for Windows are not only tested to meet PAS 24 (2022) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

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

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.

It is recommended that the communal entrance doorsets are controlled by a visitor door entry system. The system should allow the resident to have a two way conversation with the visitor from their own property, it should also allow the person to see the visitor so they can visually identify them before granting access. It would be beneficial if the system allowed the occupant to see an image before the call so the resident can decide if they wish to answer or not. The system must also allow the occupant to remotely operate the electric locking device from their terminal and any other subsequent doors.

Please note I would not support the use of a trades person button or time released mechanism due to anti-social behaviour and unauthorised access associated with these.

It is also recommended that an access control system is installed that allows residents and authorised persons to gain access to the building via an electronic card or fob. The system should have the facilitate to restricted access at certain times of the day for relevant users. The system must have the ability to record and identify the location, user, time and date of every system event and store this for no less than 30 days. It should also be fully programmable to expeditiously delete lost or stolen proximity cards, key fobs.

Please note I also would not support the use of a push button code access control system due to issues associated with these where the entry code has not been updated when previous residents have moved out or shared with unauthorised persons.

Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict.

Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked.

Lighting should be installed to each elevation that contains a doorset where public visitors or occupants are expected to use. We would support the use of a low level dusk till dawn lighting that provides a constant lighting, opposed to a PIR lighting which has been known to increase the fear of crime with the constant activation.

Communal areas inside the property such as entrance hallways, landings and corridors should have 24-hour lighting (switched using a photoelectric cell).

Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.

Physical protection - Places that include necessary, well-designed security features as required by ADQ and SBD Homes 2023

All ground floor and easily accessible windows must be fitted with window restrictors which prevents reach in burglaries where the offender reaches in an open window and takes whatever's within reach.

It would be recommended that a secured lobby area is created on the communal entrances, this would prevent onward movement to other parts of the building without authorisation. A secured mail delivery system could also be installed within the secured lobby area.

As previously mentioned with the intention to retain the current boundary walls and hedges. Any hedge should be of sufficient height (1.8m) and depth to provide both a consistent and effective defensive boundary as soon as the residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would undermine the security of the boundary.

The cycle store should be lockable and it would be recommended its linked into the access control system. The internal side of the door should be fitted with a thumbturn lock or alternative emergency release system that would allow a person to exit in the event of being inadvertently locked inside. It would also be beneficial if the cycle store had lighting in which provides an even spread and illuminates the whole store making it feel safe to use at all times.

Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

Devon County Council's Principal Ecologist (Comments dated 07.02.2024):

Headline – Okay subject to conditions.

The bat presence/absence survey was undertaken in accordance with best practice guidance. No bats were recorded emerging from the building indicating the absence of bat roosts. No trees onsite deemed suitable in supporting bat roosts. No impacts on roosting bats are anticipated. The report states that no mitigation for bat roosts is required. A planning condition should be secured to ensure that no external lighting is to be installed or used in association with the development unless otherwise agreed with the Local Planning Authority.

The nesting birds survey was undertaken in accordance with common practice. The report acknowledges the potential for nesting birds to occur in the future. The report states that the works should be undertaken outside of the bird nesting season or following a check for the presence of nesting birds by an Ecologist. A planning condition should be secured to ensure that vegetation clearance works and enabling/demolition works are undertaken outside the bird nesting season, unless the site is inspected by an Ecologist prior to works commencing.

The report acknowledges the low potential for reptiles to be present. If present, these reptiles could be directly impacted by the demolition works. Mitigation for reptiles is mentioned in the Executive Summary of the Ecology report but this information is not detailed in the Conservation Action Statement, therefore it will need to be provided in a Construction and Environmental Management Plan document which is to be conditioned.

The Ecology report recommends the following biodiversity enhancement measures:

- Installation of artificial animal homes (no.) fitted to or integrated into the new building: bat boxes (4) and integrated bat bricks (4), integrated swift bricks (4), house martin (4 nests), house sparrow terrace boxes (2), bee bricks (2); hedgehog homes (2); and bat boxes fitted to trees (2).
- Removal of 33 m of the non-native leylandii and replant a tall, native hedge with trees.
- Removal of invasive plant species - three-cornered leek and Rhododendron.
- Planting trees (13No. trees: 12No. native species, 1No. non-native species) at locations shown in arboricultural planting plan.
- Building a wildlife pond in northeast corner (surface area 35m²).
- Planting species-rich wildflower grassland (300m²) for pollinators. Location in northeast corner around the pond.
- Extensive green roofs total 116 m² , comprising drought tolerant grassland/sedum.
- Green walls total 371 m² (ground-planted 109 m² and façade-bound 262 m²) with planting native or non-native plants including climbing plants, such as honeysuckle (*Lonicera periclymenum*), hop (*Humulus lupulus*), passion flower (*Passiflora incarnata*), star jasmine (*Trachelospermum jasminoides*), Wisteria, Clematis, firethorn (*Pyrocantha*), climbing rose (*Rosa*), bryony (*Bryonia*) or ivy.
- Brash/log piles - the woody plants (trees/shrubs) removed will be cut and stacked to form a dead wood pile somewhere on the perimeter.

The above are deemed sufficient and the locations provided within the EclA will therefore be conditioned.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact (including the impact upon heritage assets)
3. Residential Amenity
4. Highways, Movement and Parking

5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change
8. Designing Out Crime
9. Viability

1. Principle of Development

The proposal is for the demolition of the existing hotel building and associated ancillary buildings and the erection of 14no. residential apartments. The site is a disused brownfield site that formerly operated as a hotel.

Policy TO2 of the Local Plan states that, outside Core Tourism Investment Areas, the change of use of holiday accommodation will be permitted where:

1. The holiday character of the area and range of facilities and accommodation offered are not undermined; and,
2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TO2 of the Local Plan states that, where a change of use away from tourism is permitted, there will be a requirement to: (i) restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use, (ii) to reinstate amenity space lost through over-development as a holiday use, and that (iii) a high priority will be given to restoring the character and appearance of buildings within conservation areas.

In light of the above, the proposal would not restore the building or land to its original historic form, it would demolish the existing buildings on site in totality, resulting in a loss of the character and appearance of non-designated heritage assets. The heritage impacts of the proposed development are discussed in the next section of this report.

Policy TO2 of the Local Plan also states that, whether inside or outside Core Tourism Investment Areas, change of use from holiday accommodation to small apartments and houses in multiple occupation (HMOs) will not be permitted where they would conflict with the tourism character and offer of the Bay. Similarly, Policy SS11 of the Local Plan seeks to secure, amongst other things, well-balanced communities with a range of good quality residential accommodation including small to medium sized homes (2-4 bedrooms), and to resist excessive numbers of small self-contained apartments and HMOs, with a particular emphasis on Community Investment Areas. While it is apparent that the site does not have a strongly tourism-based character and is not within a Community Investment Area, the site is located relatively close to the Core Tourism Investment Area anchored around Babbacombe Downs to the northeast and the nearby Community Investment Area to the southwest.

Policy TT1 of the Neighbourhood Plan states that change of use from tourist accommodation to residential on sites outside the Core Tourism Investment Areas will be supported subject to, amongst other things, the site being of limited significance to the tourism setting, or the site lacking viability for tourism.

Policy TT2 of the Neighbourhood Plan states that change of use away from tourist accommodation within Conservation Areas will be support in principle (subject to other policies) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

The previous planning application (ref: P/2021/0520) on the application site was supported by a viability report that supported the change of use from holiday accommodation to residential. Objectors have raised concerns regarding the loss of tourist accommodation. The former hotel is located in a secondary, residential area with limited passing trade and no sea views. The property is not well placed for Torquay's main attractions, all having negative implications for occupancy and room rate. The local market has experienced an increase in the number of hotels and hotel bedrooms, all of which will compete for the existing business at the Seabury Hotel. Previous evidence suggests that the 2-star independent sector which the Seabury Hotel sits in, is the most sensitive to market challenges and the business is currently loss making due to declining revenue and high costs associated with property maintenance, payroll and credit card charges and is therefore not viable.

The character in the vicinity of the site is more defined by residential properties than by holiday accommodation, and the site is somewhat separate from the important tourism facilities and accommodation at Babbacombe Downs (which, unlike the application site, is designated as a Core Tourism Investment Area). Although the hotel contains a swimming pool and has clearly received investment, the type of accommodation and facilities appear to be available elsewhere, closer to key tourism locations. Given the site's location, the hotel's performance in recent years, and the pipeline of new hotels opening in the wider area, it appears unlikely that the loss of the hotel would adversely affect the tourism character of the area, or the range of accommodation offered in Torbay.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. Letters of support state that the proposal would provide housing, facilities and jobs.

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

Policy TS4 of the Neighbourhood Plan states that development proposals for brownfield sites

will be supported, providing there are no significant adverse impacts, having regard to other policies in the Plan.

The Government published the most recent Housing Delivery Test in December 2023. Torbay's result is 55%. This means that Torbay must apply the presumption in favour of sustainable development as required by Paragraph 11 of the NPPF. Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall. The Housing Delivery Test requires that the presumption in favour of sustainable development be applied as per Paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states:

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

For decision-taking this means:

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

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

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [see Footnote 7]; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

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

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

- The application of policies in the Framework that protect designated heritage assets provides a clear reason for refusal (i.e. the “tilted balance” at Paragraph (d)i) or
- The impacts of approving a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole (i.e. the “tilted balance” at Paragraph 11(d)ii).

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

There is moderate but less than substantial harm to the conservation area and the setting of a Grade II listed building, both designated heritage assets, contrary to the NPPF, notably Paragraph 208, whereby (for reasons set out in this report) the public benefits of the proposal do not outweigh the identified harm. Paragraph 205 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. As such, the proposal presents a clear reason for refusing the application.

As such the ‘tilted balance’ identified in Paragraph 11 of the NPPF is not enacted. Designated heritage assets are defined protected assets under Paragraph 11(d)i and given the harm to such, the policies in the Framework which seek to protect the *areas or assets of particular importance* provide a clear reason for refusing the development. The presumption in favour of sustainable development therefore does not apply.

It is also considered that the impacts of approving the development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole (i.e. the “tilted balance” at Paragraph 11(d)ii). This is set out in the final section of the report dealing with the planning balance.

2. Design and Visual Impact (including heritage impacts)

It is important to note that achieving good design is a central thread within national guidance and Part 12 of the NPPF “Achieving well-designed and beautiful places” offers key guidance on this. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 goes on to state that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 139 states that “*development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design*”. Similar design expectations are engrained within the Development Plan through Policies SS11, DE1 and DE4 of the Local Plan and Policy TH8 of the Neighbourhood Plan.

The site is occupied by a Victorian villa and its curtilage, sited at the corner of Manor Road and Stanley Road, Torquay. While the original building dates from 1830s-1860s, the villa is a typical example of its type, with stucco elevations, sash windows, a Welsh slate roof, and generous grounds, bounded by characterful walls in local stone. Like many other villas within the St Marychurch Conservation Area, it has had a number of insensitive twentieth century extensions, which have masked its character and caused harm to the St Marychurch

Conservation Area. However, it is still possible to recognise the core historic villa at the heart of the application site.

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

The application is supported by a Heritage Statement. The St Marychurch CAA does not identify the subject property as a key building, but draws attention to the prominent stone walls and mature trees along the plot boundaries. The site is in close proximity to a Grade II listed building, namely No.205 St Marychurch Road, which is opposite the site on the north-western side of Manor Road. The St Marychurch Conservation Area Character Appraisal sets out that the Victorian character of the area is fundamental to its character.

It is also incumbent on the Authority, in exercising its duties, under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 66(1)), to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and (Section 72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The proposal is to demolish all the existing buildings on the site, including the historic villa, and redevelop the site with a three storey residential building, in a Victorian style, with rendered walls, portrait shaped windows, hipped slate roofs, and an octagonal corner tower. Letters of support state that the proposal would have a positive impact on the local area and remove an eyesore, whereas letters of objection outline concerns that the proposed development would have a negative impact on the local area and the conservation area, would constitute overdevelopment, would set an unwanted precedent, and would not be in keeping with the local area.

Paragraph 195 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The NPPF outlines that the conservation of heritage assets should be given great weight in decision making (Paragraph 205 refers).

It is important to note that Historic England were not consulted on the former approval (ref: P/2021/0520), however Historic England in response to this planning application have reviewed the former consent to conclude that had they been consulted they would not have raised concerns, as the previous application sought to remove the insensitive twentieth century extensions and replace such with new extensions that were sympathetically scaled and respectfully retained the core of the villa. Historic England have confirmed that the former consent (P/2021/0520) would not generate harm.

Historic England have stated that the loss of the historic villa would cause harm to the St Marychurch conservation area, regardless of its insensitive twentieth century extensions, it makes a contribution to the conservation area, as a legible historic villa, which are fundamental to the character and interest of the conservation area. Historic England have outlined that the incremental erosion of the conservation area, including the loss of buildings that contribute positively to its character and appearance does not conserve a heritage asset, it results in harm. Historic England have commented "*the scale of the new building is uncharacteristic of the villas in this part of the conservation area, as is the ratio of building to garden area. Whilst the Victorian style proposed does in theory respond to the character of the conservation area, the massing and detailing proposed is unconvincing. The paucity of chimney stacks, the use of semi-circular window heads over square-headed windows, and the elephantine scale of the building compared to the original villa are just a few of the reasons why the proposed design fails to be a convincing evocation of a Victorian villa*". Historic England conclude that they raise concerns about the proposed development on heritage grounds, and that the complete demolition of the former Seabury hotel would cause harm to the St Marychurch conservation area which is a designated heritage asset.

The NPPF confirms that harm must be clearly and convincingly justified (Paragraph 206). The wholesale demolition of the existing building would cause substantial harm (through complete loss of significance) to the former Seabury Hotel as a non-designated heritage asset. This would also result in 'less than substantial harm' to the significance of the St. Marychurch Conservation Area and no.205 St. Marychurch Road as a Grade II listed building.

The Council's Principal Historic Environment Officer has assessed the existing building through the tests Historic England provide on assessing whether a building has the potential to be a non-designated heritage asset. The Officer has concluded that although the villa has been significantly altered, it has some architectural and historic interest, which forms part of an informal group of buildings within the immediate area, it can be considered as a non-designated heritage asset and potentially further significance can be revealed through the removal of existing, unsympathetic extensions.

The Victorian Society have objected to the proposal, outlining that the existing villa makes some contribution to the character and understanding of the St Marychurch Conservation Area. The Victorian Society have stated that the proposal has a scale and design that is out of character with the surrounding historic buildings and would negatively impact the setting of the adjacent listed building Berkshire Court (Grade II). The Historic Buildings and Places body outlines that the design, scale and massing of the proposed development is out of scale with the characteristic form within the St Marychurch Conservation Area.

Objections and concerns have been raised regarding the demolition of the existing building and the form of the proposed replacement building by Historic England, The Victorian Society, The Historic Buildings and Places body, and the Council's Principal Historic Environment Officer. Summary guidance from the consultees cited are generally aligned, concluding that the building is a positive element within the designated heritage asset of the St Marychurch Conservation Area, and its' loss and replacement with the form of development proposed would be harmful, which would be counter to policy guidance.

Considering the comments received from third parties, and having visited the site and immediate area, the existing building is deemed a positive element within the Conservation Area, this is notwithstanding deleterious extensions and incongruous expanse of hardstanding to the frontage.

The replacement building offers a larger footprint and additional height than the existing hotel. The resultant height and mass of the replacement building will be unduly dominant within the plot, which resultantly fails to respond positively to the historic character, and the sites constraints. To the frontage of the plot, the redevelopment presents little softening of the plot with a large area of hardstanding for the parking and manoeuvring of vehicles, which will dominate the frontage and will be apparent when travelling along Manor Road. The existing hardstanding is a harmful and incongruous element of the current plot, and the proposal fails to respond positively in terms of the NPPFs aspirations for development to seek to better reveal the significance of heritage assets (in this case the conservation area as the designated heritage asset and the building as a non-designated heritage asset). In general, it is considered that the design would result in permanent harm to the character and appearance of Manor Road and Stanley Road.

All matters considered, the summary position is that the existing villa is a positive element within the St Marychurch Conservation Area and the proposed development, by reason of the removal of the existing villa and the proposed replacement building presenting a scale and massing that would be unduly dominant within the plot, which would present a detailed but busy design that would be harmful to the character and appearance of the area.

In this circumstance, the development would lead to moderate but less than substantial harm to the St Marychurch Conservation Area, and moderate but less than substantial harm to the setting of no.205 St Marychurch Road, both of which are designated heritage assets. The loss of the existing building would also lead to the total loss of its significance as a non-designated heritage asset, and this should be taken into account within the balancing exercise in accordance with Paragraph 209 of the NPPF.

In light of the above context, it is relevant to note that when considering a proposal involving a number of heritage assets, if less than substantial harm is found in respect of a number of assets, more weight can reasonably be attached in the overall planning balance to a number of "less than substantial" harms than would be the case if only one asset were (less than substantially) harmed.

In such a circumstance where a proposal will lead to less than substantial harm to the significance of a designated heritage asset/s, Paragraph 208 of the NPPF requires the harm be weighed against the public benefits of the proposal. Paragraph 214 of the NPPF requires local planning authorities to assess whether the benefits of the proposal, which would otherwise conflict with planning policies but would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies. The main public benefit of the scheme would result from the provision 14 apartments. In this instance the benefits that are offered by the development do not outweigh the harm to the designated heritage assets, namely moderate harm to the conservation area and moderate harm to the

setting of a listed building, and the loss of the non-designated heritage asset, the existing villa. This conclusion has regard to the duties within the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas, and to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

For the reasons above the development is considered contrary to Paragraphs 135, 139, 195, 203, 205, 208, 209 and 212 of the NPPF and Policies DE1, SS10 and SS11 of the Local Plan, and Policy TH8 of the Neighbourhood Plan. The proposal would also conflict with the requirements of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. Residential Amenity

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

In terms of location the application site is relatively close to the St Marychurch District Centre and the Plainmoor Local Centre and is therefore considered a positive sustainable location for the future use and well suited to a residential occupancy, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options.

Quality of living accommodation for future occupiers

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

| <u>Flat Number</u> | <u>No. of Bedrooms</u> | <u>No. of Bed Spaces</u> | <u>Floorspace (sq. m)</u> | <u>Minimum Requirement</u> |
|--------------------|------------------------|--------------------------|---------------------------|----------------------------|
| 1 | 2 | 3 | 75.0 | 61 |
| 2 | 2 | 3 | 75.0 | 61 |
| 3 | 2 | 3 | 85.5 | 61 |
| 4 | 2 | 3 | 76.5 | 61 |

| | | | | |
|----|---|---|------|----|
| 5 | 2 | 3 | 75.0 | 61 |
| 6 | 2 | 3 | 75.0 | 61 |
| 7 | 2 | 3 | 75.0 | 61 |
| 8 | 2 | 3 | 75.0 | 61 |
| 9 | 2 | 2 | 75.0 | 61 |
| 10 | 2 | 3 | 75.0 | 61 |
| 11 | 2 | 3 | 75.0 | 61 |
| 12 | 2 | 3 | 75.0 | 61 |
| 13 | 2 | 3 | 80.2 | 61 |
| 14 | 2 | 3 | 79.1 | 61 |

The proposal seeks to provide 14 x 2-bed apartments. The principal change to the housing mix from the previous consent is the increase of the number of units by two additional apartments, and less of a mix given that the previous consent sought four 1-bed apartments, six 2-bed apartments and two 3-bed apartments.

All apartments are considered to provide an acceptable scale of living accommodation with floor areas exceeding the prescribed standards. In addition to the size of the space, the quality of the space should be considered, in terms of how it is positively influenced by natural light levels and outlooks. In this regard, concerns are raised regarding the single aspect of Apartments 7 and 13. It is considered that Apartment 13 would receive limited natural daylight. Concerns are also raised in relation to the proposed openings for Apartments 2, 6 and 12 which are situated in the south west corner of the proposed replacement building and the retained trees, in terms of whether their outlook and access to natural daylight would be impacted. When compared to the previously approved scheme, the footprint of the current proposal is closer to the retained trees. The retained lime trees are a pruning tolerant species and are out of leaf in winter months, however the master bedrooms in Apartments 2, 6 and 12 are most likely to be affected by the retained trees.

Policy DE3 of the Local Plan also seeks secure the provision of usable outdoor amenity space where apartments should deliver 10 square metres per unit either individually or communally. The Neighbourhood Plan is in alignment with this guidance as advised within Policy THW4, either as balconies or communal space. The scheme provides a communal greenspace that accumulatively exceeds the policy-guided minimum of 140 square metres, which provides an acceptable level of outdoor space for future occupants of the apartments.

Adjacent neighbouring amenity

Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. Objectors have raised concerns regarding noise and privacy/overlooking.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through positively managing the process through a Construction Method Statement, this should be conditioned should planning permission be granted.

In terms of the finished development the residential use aligns with the residential uses nearby and the proposed use would not result in undue noise or general disturbance. The move from a commercial use to a residential use is likely to be positive as although the site lies empty a future commercial use could create noise and disturbance.

Objectors have raised concerns in terms of noise and privacy/overlooking. The proposed development is some 12-14 metres from the nearest adjacent neighbours (residential care homes (Park House, No.7 Manor Road and Cary Park Lodge)). The existing use of the site is a hotel, it is considered that the proposed residential use would not result in any detrimental impact on adjacent neighbours in terms of noise. Given the proposal's siting, design and orientation in relation to adjacent neighbours it is considered that the proposed development would have the potential to overlook the grounds of Park House, which would impinge on the neighbouring occupiers privacy. Whereas the previously approved scheme retained more of the existing hedgerow between the application site and Park House to avoid such infringement.

Having regard to the amenities provided within the proposal for future occupants and the future relationship of the development with adjacent plots and neighbouring occupants, the majority of the scheme broadly aligns with the aims and objectives of Policies SS11 and DE3 of the Local Plan, Policy THW4 of the Neighbourhood Plan and the guidance contained within the NPPF. It is not considered that the issues identified within this section relating to the quality of living accommodation for future occupiers are not detrimental enough to constitute a reason for refusal.

4. Highways, Movement and Parking

Paragraph 114 of the NPPF guides that when assessing developments 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; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflect 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 115 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Development Plan objectives align with the aspirations of national guidance with principal guidance within Policies TA1, TA2 and TA3 of the Local Plan encompassing outcomes for developing a sustainable model of transport, providing a good standard of access for walking, cycling, public and private transport modes, standard for parking and cycling facilities. The Neighbourhood Plan reinforces the guideline parking requirements contained in the Local Plan through Policy TH9 and more broadly offers support for new development proposals where they are located on or near to public transport routes wherever possible and appropriate through Policy THW5.

The proposal proposes to maintain the existing vehicular access from Manor Road. The proposal includes 14 on-site parking spaces. Objectors have raised concerns regarding traffic and access. Local Plan policy guidance states that the proposed development should provide one off-street parking space per apartment, totalling 14 off-street parking spaces, plus an additional parking space for visitors. There is a deficit of 1 parking space, however it is considered that the existing use of the site with 23 hotel rooms available, the existing 12 off-street parking spaces had to serve both guests and hotel staff. It is considered that the deficit of 1 parking space for the proposal, in relation to the existing situation would have a lesser impact on the local highway network. Furthermore, the site is in a sufficiently sustainable location as it is in close proximity to the St Marychurch District Centre and is in close proximity to local amenities and public transportation links to mitigate the insufficient onsite parking provision. The guidance notes also state that in flatted developments 20% of available spaces should have electric charging points and that there should be 10% of spaces suitable for disabled users. Should planning permission be granted, a planning condition should be employed to secure an appropriate level of electric charging points. The proposal also includes 18 bicycle storage spaces, which would exceed the policy requirement of 1 space per apartment. The proposed bicycle storage provision is considered to be acceptable, should planning permission be granted a planning condition should be employed to secure the provision prior to the first occupation of the development.

The proposed layout does not assign specific parking spaces to each apartment. WSP on behalf of the Local Highway Authority has confirmed that on-street parking on Manor Road is generally at capacity and any visitor parking within the site would be welcomed. WSP have confirmed that the trip generation for this application is acceptable, and it is not considered that the proposed development will result in a significant increase in generated traffic compared to the previous use. The applicant has provided vehicle tracking for emergency vehicles that demonstrates it would be possible to access the site and egress in a forward gear, which the Local Highway Authority consider to be acceptable. The Local Highway Authority has raised an objection that the proposed plan should align with Building Regulations Part S (Infrastructure for Charging Electric Vehicles), however such can be remedied through planning condition should permission be granted. The proposal is considered to comply with Policies TA1 and TA2 of the Local Plan, and the guidance contained within the NPPF.

In terms of key ancillary elements Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage of waste. The applicant has

proposed underground recycling and waste storage which SWISCo has confirmed is not compatible with domestic recycling and waste collections in Torbay. A vehicle with a crane lift is required to empty these containers, which SWISCo do not use for recycling and waste collections. SWISCo's Waste (Strategy & Performance) Team Manager was consulted on the application and requested a detailed waste management plan for the operational life of the development, explaining how the services will be tailored to the development and demonstrating compatibility with the domestic collection service, provided by SWISCo on behalf of Torbay Council. The Local Highway Authority has requested clarification on the refuse collection strategy and whether the refuse collection would be undertaken from the public highway of Manor Road. The applicant has confirmed that waste vehicles will not need to enter the application site. The applicant has not provided a revised scheme for the storage and collection of waste.

5. Ecology, Biodiversity and Trees

The NPPF provides guidance in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Paragraph 180). The Development Plan frames similar aspirations principally through Policy NC1 of the Local Plan and Policy TE5 of the Neighbourhood Plan, the latter in terms of impacts upon any existing protected species or habitats. Policy C4 of the Local Plan states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

Objectors have raised concerns regarding trees and wildlife. The application is supported by a Preliminary Ecological Appraisal, a Bat Survey report and a Biodiversity Metric Assessment and Landscape Plan. The bat presence/absence survey was undertaken in accordance with best practice guidance. No bats were recorded emerging from the building indicating the absence of bat roosts. No trees onsite deemed suitable in supporting bat roosts. No impacts on roosting bats are anticipated. The report acknowledges the potential for nesting birds to occur in the future. The report acknowledges the low potential for reptiles to be present. If present, these reptiles could be directly impacted by the demolition works, therefore a Construction and Environmental Management Plan should be secured prior to demolition. The Ecology report recommends the following biodiversity enhancement measures:

- Installation of artificial animal homes fitted to or integrated into the new building: bat boxes (4no.) and integrated bat bricks (4no.), integrated swift bricks (4no.), house martin (4 nests), house sparrow terrace boxes (2no.), bee bricks (2no.); hedgehog homes (2no.); and bat boxes fitted to trees (2no.).
- Removal of 33 metres of the non-native leylandii and replant a tall, native hedge with trees.
- Removal of invasive plant species - three-cornered leek and Rhododendron.
- Planting trees (13no. trees: 12no. native species, 1no. non-native species) at locations shown in arboricultural planting plan.
- Building a wildlife pond in northeast corner (surface area 35 square metres).
- Planting species-rich wildflower grassland (300 square metres) for pollinators. Location in northeast corner around the pond.

- Extensive green roofs total 116 square metres, comprising drought tolerant grassland/sedum.
- Green walls total 371 square metres (ground-planted 109 square metres and façade-bound 262 square metres) with planting native or non-native plants including climbing plants, such as honeysuckle (*Lonicera periclymenum*), hop (*Humulus lupulus*), passion flower (*Passiflora incarnata*), star jasmine (*Trachelospermum jasminoides*), Wisteria, Clematis, firethorn (*Pyrocantha*), climbing rose (*Rosa*), bryony (*Bryonia*) or ivy.
- Brush/log piles - the woody plants (trees/shrubs) removed will be cut and stacked to form a dead wood pile somewhere on the perimeter.

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

The application is supported by a Tree Protection Plan, an Arboricultural Method Statement and an Arboricultural Impact Assessment. The application site contains a number of variable quality trees and hedges. The Council's Senior Tree and Landscape Officer raises no objections to proposed development subject to planning conditions being applied in respect of compliance to the submitted Arboricultural Impact Assessment and Arboricultural Method Statement; to secure the proposed tree planting; and arboricultural site monitoring and reporting to the LPA including records of checks for tree protection / ground protection during the construction and landscape phases. The development is considered acceptable, in-line with the aspirations of Policy C4 of the Local Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

The NPPF provides guidance towards avoiding inappropriate development in areas of flood risk by directing development away from areas at higher risk (Paragraph 165), and when determining applications seeks local planning authorities to ensure that flood risk is not increased elsewhere (Paragraph 173). The Development Plan offers similar expectations for ensuring the risk of flooding is not increased, together with expectations that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, through Policy ER1. Policy ER1 also outlines a hierarchy for water-flow management within new development, with similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay.

The application site sits within the wider Torbay Critical Drainage Area as designated by the Environment Agency. Objectors have raised concerns regarding drainage. The submission has been reviewed by the Council's Drainage Engineer, who has confirmed that as there is insufficient room on site for infiltration drainage the proposed drainage strategy for surface water run-off from the buildings is for a controlled discharge to the combined sewer system and the controlled discharge rate has been identified as 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area. The developer has submitted a drawing

showing the proposed drainage strategy together with hydraulic calculations for the surface water drainage design. The drainage strategy drawing identifies manhole cover levels and invert levels, pipe diameters and pipe lengths, and has also identified the actual impermeable area discharging to each pipe length within the hydraulic model. The Council's Drainage Engineer has confirmed that the surface water drainage would be constructed in accordance with the drainage strategy and that they have no objections on drainage grounds should planning permission be granted. The proposal is considered to comply with Policies ER1 and ER2 of the Local Plan.

7. Low Carbon Development and Climate Change

The NPPF guides that the planning system should support the transition to a low carbon future in a changing climate, including helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and support renewable and low carbon energy and associated infrastructure (Paragraph 157).

Policy SS14 of the Local Plan supports national guidance and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

The application is supported by an Energy Statement. To reduce energy use for the proposed development, the following measures have been included:

- U-Values in line with Part L minimum requirements
- Heated access corridors
- Glazing (whole frame) u-value 1.2W/m²k with a g value of 0.50
- High efficiency lighting
- Natural ventilation (with extract fans only)
- Design Air Permeability (DAP) of 5.00
- Limiting thermal bridging – *for the purpose of the assessment, SAP Appendix R: Table R2 PSI values have been used*

The Statement outlines that electricity has been chosen as the most sustainable fuel and will future-proof the residential units. Heat pumps for both space and water heating have been selected to reducing carbon dioxide emissions. To further enhance the development's energy systems, enhanced controls and heat emission has been recommended.

The proposed heating system is an air source heat pump (ASHP). This will provide heating and hot water and replace the need for mains gas. Taking various factors into account such as location, ease of installation and the client's preferred solution, individual ASHP's have all been selected as the most desirable and feasible choice of renewable/low carbon technology for the development. As such, each apartment will have their own individual ASHP unit to supply electricity to from a renewable source. After consultation with the client and a review of the architect's drawings, it has been decided that the ASHP's will be situated within a plant room on the second floor.

The Statement concludes that the proposed development will reduce CO2 emissions by approximately 58.99% beyond the requirements of Part L of the Building Regulations and therefore meets the planning requirement set by the Council *‘to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited’*.

The development is in accordance with Policies SS14 and ES1 of the Local Plan and advice contained within the NPPF.

8. Designing Out Crime

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy TH2 of the Neighbourhood Plan sets out that new development should provide a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

The Police Designing Out Crime Officer was consulted and commented upon the application. The proposal does not include a scheme of designing-out crime measures.

9. Viability

Planning Practice Guidance (Paragraph: 006 Reference ID: 10-006-20190509) confirms that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The application has submitted a viability appraisal that was produced by Sturt and Company, in which the appraisal justifies the need by stating:

“It is a requirement for the applicant to justify and demonstrate why a viability assessment is appropriate for the subject site. One reason is whether or not the viability evidence underpinning planning policy is up to date. Unfortunately, much of the CIL and Affordable Housing evidence justifying the tenure split the Local Authority is relying on, is over four years old and out of date. It also does not reflect the recent build cost inflation and introduction of Part L. Consequently, the Local Authority’s evidence base is out of date especially in relation to building costs which have gone up significantly”.

The applicant’s viability appraisal has been independently assessed by William Lean. The viability appraisal considered the following three development options:

1. The approved 12 residential unit scheme which retains the historic core of the building.
2. Alternative schemes which utilised additional storeys to create additional units. The informal scheme retained the historic core of the building and contained 24 residential units incorporating the previously approved scheme.
3. The current proposal for 14 residential unit scheme which includes the demolition of the entire building.

Paragraph 58 of the NPPF confirms that the weight to be given to a viability assessment is a matter for the decision maker.

It should be noted that several consultees have made specific reference to viability within their consultation responses. The Torquay Neighbourhood Forum stated that “*the proposed design was an improvement over previous proposals, and probably represents the best compromise by maintaining some characteristics of the Victorian style while providing sufficient dwellings to be viable*”. Historic England stated that “*The viability study should be given careful scrutiny, but if your Council agrees with its conclusions, we suggest that retention of the villa with a larger but well-designed separate new build element would potentially be less harmful to the conservation area than the proposed scheme*”. The Council’s Principal Historic Environment Officer stated that “*It is appreciated that viability information has been submitted as part of the application which seeks to justify wholesale demolition and redevelopment. It is considered that this would require independent assessment to judge what weight can be given to this within the overall assessment of the proposals*”.

The viability appraisal by Sturt and Company concluded that the previously approved 12 unit scheme is unviable, as well as alternative informal schemes including the 24 unit scheme, and the only viable scheme available for the application site is the current proposed 14 unit scheme and any scheme below 14 units would not be viable. It should be noted that the Council has not formally been presented with a 24 residential unit scheme. William Lean has concluded that the current application for 14 units would deliver a reasonable profit (approximately 17%) to the developer, whereas the previously approved 12 unit scheme is not viable.

Sustainability

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

The Economic Role

Whilst the loss of the hotel use is regrettable, the 2-star independent sector which the Seabury Hotel sits in, is the most sensitive to market challenges.

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

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

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

The Social Role

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

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

The Environmental Role

With respect to the environmental role of sustainable development, for reasons set out in this report there is material harm to identified heritage assets (the St Marychurch Conservation Area and the setting of no.205 St Marychurch Road listed building) which presents a clear reason for refusing the application.

The proposal provides low carbon and energy measures. The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition should planning permission be granted.

Concerns have also been raised with regards to access to natural light to habitable rooms when considering a number of the proposed apartments, as well as some being single aspect.

It is concluded that the environmental impacts of the development, in terms of the adverse impact on heritage assets and whilst not being a reason for refusal the concerns over access to natural light and aspect for some of the apartments, weigh against the development.

Sustainability Conclusion

Having regard to the above assessment the proposed development is not considered to represent sustainable development.

Statement on Human Rights and Equalities Issues

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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate

discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

Affordable Housing

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

CIL

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

The estimated CIL liability is £38,621.26. This figure is indexed linked, and the final figure will be calculated on the day of the decision.

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

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

S106

Site Acceptability Matters: None.

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

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

As such no S106 legal agreement is considered necessary were planning permission granted.

EIA/HRA

EIA

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development. The development does not meet the thresholds for screening and is not in a sensitive area.

HRA

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

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC and a formal HRA screening is not necessary in this instance as the proposed development is unlikely to have a significant effect on the South Hams SAC.

Planning Balance

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

When taking account of the Government's objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with the acknowledged important contribution that small sites can make to meeting the housing requirement of an area and the Council's housing land supply situation, as well as the site being a brownfield site and currently vacant, the cumulative public benefits of the proposed scheme attracts substantial weight.

As the proposal is not in accordance with the Development Plan, consideration needs to be given as to whether material considerations indicate that the application should be approved.

The Government published the most recent Housing Delivery Test in December 2023. Torbay's result is 55% (i.e. between 2019-22 there were only 55% as many completions as the number of homes required). Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall.

There are some social, economic and environmental benefits associated with building and occupying homes weigh in favour of the development, and there is also some minor benefit from the discounted CIL payment.

The NPPF gives great weight to a designated heritage asset's conservation, irrespective of the amount of harm. The proposal is considered to result in moderate but less than substantial harm to the St Marychurch Conservation Area and moderate but less than substantial harm to the settling of no.205 St Marychurch Road. The NPPF confirms that the significance of a non-designated heritage asset should be taken into account when determining planning applications, as such a balanced judgement is required, the proposed total demolition is considered to result in substantial harm to the non-designated heritage asset. Weight must also be afforded to the statutory duties within the Planning (Listed Buildings and Conservation Areas) Act 1990, for the local planning authority, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. The Act also places statutory duties on the local planning authority, to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

The design would result in permanent harm to the character and appearance of Manor Road and Stanley Road. It would therefore conflict with the NPPF's approach to design which advocates the creation of high quality, beautiful and sustainable buildings, which are visually attractive and will function well. This attracts substantial weight in the balance.

Housing need is itself an important factor but must be balanced with other considerations to inform whether development is sustainable development in the round. It is concluded that other material considerations do not justify the grant of planning permission.

Viability testing has been undertaken on this and specific alternative proposals but it is not accepted that this is the only viable scheme. It is recognised that the site is currently vacant and the possible extension of the period of vacancy has been considered. However, it should be noted that the moderate adverse impacts on the conservation area and moderate adverse impact on the setting of the listed building and total loss of a non-designated heritage asset will be permanent. This is considered to be the key consideration in accordance with the NPPF and the statutory requirements in the Listed Buildings Act 1990. In addition, adverse impacts relate to layout, height, massing, and the detailed design of the proposed development which are not all matters that necessarily impact on viability. In conclusion, the viability appraisal attracts very limited weight and does not outweigh the previous conclusions.

Finally, the presumption in favour of sustainable development has been considered in this recommendation. The identified harm to the St Marychurch Conservation Area and the setting of the Grade II designated heritage asset, and the total loss of a non-designated heritage asset provides a clear reason for refusing the proposed development. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusions and Reasons for Decision

The Council cannot currently demonstrate a 5-year housing land supply, as sought by Government, and the proposal will help with the delivery of housing. 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. For reasons set out in this report there is material harm to identified heritage assets which presents a clear reason for refusing the application. As such, in applying the 'tilted balance' identified in Paragraph 11 of the NPPF, it is concluded that the application should be refused.

The provision of housing is a significant benefit within the planning balance. In the absence of 5-year housing land supply the NPPF advises that the policies most important for determining the application should be considered to be out of date.

It is concluded that the development is considered to conflict with the Development Plan however Paragraph 11(d)(ii) of the NPPF states that where the policies which are most

important for determining the application are out-of-date, permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'. It should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development, however it is considered that notwithstanding the benefits of providing housing, the adverse impacts of the development, as set out in this report, significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

As such it is recommended that planning permission be refused.

Officer Recommendation

That planning permission is refused, subject to the reason detailed below. The final drafting of the reason(s) for refusal and addressing any further material considerations that may come to light to be delegated to the Divisional Director for Planning, Housing and Climate Emergency.

Reason(s) for Refusal

1. The development, by reason of the demolition of the existing building and the layout, height, massing, and detailed design of the proposed development, would fail to preserve or enhance the character and appearance of the St Marychurch Conservation Area, which would result in harm to this designated heritage asset, would harm the setting of no.205 St Marychurch Road, and would lead to the total loss of the current buildings significance as a non-designated heritage asset. As such the development is considered contrary to Paragraphs 135, 139, 195, 203, 205, 208, 209 and 212 of the National Planning Policy Framework and Policies SS10, SS11 and DE1 of the Adopted Torbay Local Plan 2012-2030, and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030, and the requirements of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Informative(s)

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 with the applicant in a positive and proactive way by clearly setting out concerns relating to the proposal and providing an opportunity for the applicant to amend the application. However, the local planning authority was unable to resolve these issues with the applicant and the applicant elected not to withdraw the application, thereby resulting in this refusal of planning permission.

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable development
SS10 - Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low carbon development and adaption to climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1 - Applications for new homes
DE1 - Design
DE3 - Development amenity
DE4 - Building heights
ER1 - Flood risk
ES1 - Energy
W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TT1 - Change of use constraints within and outside a CTIA
TT2 - Change of use in conservation areas and listed buildings
TH8 - Established architecture
TH9 - Parking facilities
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
THW4 - Outside space provision
THW5 - Access to sustainable transport

TORBAY COUNCIL

| | |
|---|--|
| Application Site Address | Brunel Manor, Teignmouth Road, Torquay TQ1 4SF |
| Proposal | Redevelopment and conversion of land at Brunel Manor including the conversion of Brunel Manor to provide 17 dwellings, the retention of Brunel Court and Brunel Lodge to provide 9 dwellings and the construction of 9 new dwellings, with associated parking, access and landscaping (Please see accompanying P/2023/0616). |
| Application Number | P/2023/0606 |
| Applicant | ATA Estates (Brunel Manor) LLP |
| Agent | Oneleven Property |
| Date Application Valid | 10.07.2023 |
| Decision Due date | 09.10.2023 |
| Extension of Time Date | 28.06.2024 |
| Recommendation | Approval subject to: <ol style="list-style-type: none"> 1. Completion of a Section 106 agreement. 2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency. 3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations. |
| Reason for Referral to Planning Committee | Major planning application |
| Planning Case Officer | Jim Blackwell |

the south and balustrades to the south terrace). The site is also within the Watcombe Park Conservation Area where several other listed buildings can be found.

Vehicular, pedestrian and cycle access to the site is from Teignmouth Road opposite Ashley Priors Lane. There is also a footpath linking with Seymour Drive to the north of the site. There are existing residential dwellings directly to the north on Seymour Drive and west at Kingsgate Close. The eastern boundary of the site comprises Teignmouth Road with residential flat development beyond. The site is approximately 2km from Barton and Watcombe where there are various shops, schools and recreation areas. There is a bus stop at the entrance to the site and a southbound bus stop approximately 100m to the north of the site access.

The site is subject to the following designations:

- Grade II listed buildings.
- Historic Park and Garden.
- Three group and individual Tree Preservation Orders.
- Watcombe Park Conservation Area.
- Local Green Space as designated in Torquay Neighbourhood Plan.
- Urban Landscape Protection Area.
- Located within Flood Zone 1.
- CIL Zone 3.
- John Musgrave Heritage Trail runs along the boundary of the development.

Description of Development

Redevelopment and conversion of land at Brunel Manor including the conversion of Brunel Manor to provide 17 dwellings, the retention of Brunel Court and Brunel Lodge to provide 9 dwellings and the construction of 9 new dwellings, with associated parking, access and landscaping.

The development would include the demolition and removal of unsympathetic extensions and additions from the listed building, Brunel Manor. It would also include the following mix of dwellings:

| Site/building | Type | Total |
|---------------------------------|-----------------|--------------|
| | | |
| Conversion of Brunel Manor | 2 bed house | 1 |
| | 3 bed house | 2 |
| | 2 bed apartment | 13 |
| | 3 bed apartment | 1 |
| Total in listed building | | 17 |
| | | |
| Conversion of Brunel Court | 1 bed house | 2 |
| | 2 bed house | 3 |
| | 3 bed house | 2 |
| Conversion of Brunel Lodge | 3 bed house | 1 |
| | 4 bed house | 1 |

| | | |
|--|-------------|-----------------|
| New build | 4 bed house | 9 |
| | | |
| Total conversions and new build | | 18 |
| | | |
| Total | | 35 units |

In addition:

- Vehicle access to the proposed dwellings will continue to be provided from the existing access from the Teignmouth Road.
- A total of 68 car parking spaces are provided across the site which includes 22 visitor spaces.
- 44 cycle spaces.
- Landscape renovation.
- Removal of the single storey swimming pool building to the south of the Manor.

A range of new information has been provided:

- Surface water drainage and attenuation tank details.
- Swept path analysis.
- Movement Strategy.
- Waste Management Strategy.
- BNG information.
- Arboricultural Development Assessment.
- Transport Assessment technical note.
- Layby arrangement drawing.
- Vacant Building Credit position statement.

Pre-Application Enquiry and Engagement

DE/2021/0136 - 8 February 2022

The principle of the proposed residential development was considered to be acceptable subject to a wide range of considerations.

The planning application is accompanied by a Statement of Community Involvement (SCI) which sets out the sequence of consultation and engagement undertaken since the applicant acquired the site in 2021. The key elements can be summarised as follows:

- Pre-application enquiry and engagement with Torbay Council – November 2021 to April 2023.
- Pre-application enquiry to Historic England - July 2022.
- Design Review – September 2022.
- Public Consultation and liaison with key stakeholders – March to April 2023.

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 ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Heritage Issues.
- Planning Contributions and Affordable Housing SPD
- 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/1980/0071 – Swimming Pool (25/02/1982) Approved.
- P/1994/0986 – Alteration and Change of Use to Conference/Retreat Centre (18/11/1994) Approved.
- P/1996/0913 - Extension to Existing Dining Room and Formation of Roof Light to Staff Laundry (24/10/1996) Approved.
- P/2004/1920 – Extension to Form Double Garage, Utility & WC (24/01/2005) Approved.

Summary of Representations

Five comments were received; three objection, two supporting.

Objections can be summarised as:

- Extra traffic exiting the site and risk of collisions.
- Potential lack of parking.
- Amenity issues relating to traffic and noise.
- Loss of trees.
- Potential impact on bats and birds.
- Need for affordable housing.
- Disruption during construction works on utilities.
- Ensure fire safety.
- Future maintenance of the grounds in doubt without management.
- Architectural treatment.

Supporting comments include:

- Formalisation of the bus stop outside the site would be beneficial.
- Improvement to the managed landscape and trees.
- Provides jobs.
- Removes an eyesore.
- Provides houses.

- The scheme will safeguard the fabric of the historic manor and remove detrimental additions. Without a viable scheme the manor will fall into further disrepair, and we risk losing another historical asset in Torbay.
- We feel the proposals for the manor are sympathetic as are the proposed works to the Lodge and Court. The new build properties are sympathetic to the setting of the site and adjacent historic structures.

Summary of Consultation Responses

Wales and West:

No objection.

Natural England:

No objection.

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Torquay Neighbourhood Plan Forum:

Overall support. Registers three concerns:

- H2 Affordable Housing. Lack of affordable housing
- TA2 Development access. Current access arrangements from Teignmouth Road.
- TTR2 Sustainable Communities. Not close to places of work, education, recreation and shopping.

The Gardens Trust:

No response received.

Arboriculture:

05.09.2023

No objection subject to conditions and further information. Some concerns over:

1. The formation of a vehicle access leading to 3 x parking spaces associated with Water Row. This will potentially bring vehicles within a woodland environment on a load spreading or suspended roadway. There are risks to retained trees which are highlighted as high and technical detail on this will be required to justify an intrusion into the woodland for the benefit of three parking spaces.
2. The proposed removal of G8 (Holm Oak). I have concerns that the proposed tree removal in this area of the site will lead to a sudden and significant change in setting and loss of a maturity provided by this group of trees. Further discussion with the applicant and their advisor on this would be welcomed.
3. Parking Spaces x 5 and cycle / bin stores located in root protection areas of T18 & T19. This would need to be justified within the layout as this is a further intrusion within a woodland setting. My preference would be to locate these structures outside the RPA's as opposed to designing them into the space.

17.11.2023

I have discussed the development proposal for vehicle access (x 3) to Water Row and my understanding is that my colleague Daniel Vickridge, Green Infrastructure Manager had indicated potential support only for a limited pedestrian access through this part of the site. These were informal pre-application discussions with the arboricultural consultant.

BS5837 recommends in Section 5.3.1 that the default position is that structures should be located outside RPA's unless an overriding justification for construction is required. No evidence in terms of design need has been provided and there is no arboricultural justification for this aspect of the project.

I note that JKTC have not provided an AIA for the proposed roadway and this section is left unassessed. The parking spaces x 10 are a moderate risk and the 3 x parking spaces a high risk.

In the absence of any technical design details to show how harm to protected trees can be avoided, I am unable to offer any support for this element of the project and would encourage the design team to completely omit the vehicle access and parking provision from this part of the project.

Options for retaining the temporary construction access should be explored in greater detail as a permanent means of access. Integral garages and under-croft parking (beneath Water Row of the garden areas) merits further consideration as an alternative if engineering solutions are available and historic environment conflicts are not prohibitive.

The use of pre-commencement planning conditions might be appropriate for elements of the project, but in the case of the level of intrusion within the woodland I am of the professional view that this is not suitable. If the impacts to protected trees are too significant and we are unable to progress this element of the project at the discharge of conditions stage due to the levels of harm arising, this will result in part of the scheme potentially being undeliverable. This would be an issue for the design team to overcome.

On this basis, and in the absence of any evidence to justify the vehicle access / parking, I will object to this element of the project.

G8 – Holm Oaks

JKTC has provided an update on the condition of one tree within the group, evidencing a partial, structural failure. The remainder of the group has landscape value and the pruning tolerance of the species indicates that retention and management is a viable way forward.

The arboricultural consultant has not provided an evidence base for the removal of G8 and has advised against management and retention. As these are protected trees

within a historic landscape setting, I am conscious that there needs to be adequate justification for the removal of the trees, and I am not satisfied that this case exists and it certainly hasn't been presented to me in a compelling manner.

No principles of mitigation have been set out and this cumulative loss of trees is a cause for significant concern.

Bin stores / Cycle stores

The proposed building of structures in the RPA's of protected trees has not been justified – see comments above concerning BS5837 and RPA's / mature trees.

The tolerance to disturbance by protected trees in this part of the site is speculative and irrelevant as the principle of avoiding harm is what is required. Root protection areas are not simply an area in which development can take place and the design needs to work with the tree constraints rather than simply taking a project requirement led approach.

The cumulative impacts from placing parking and structures in two aspects of the RPA's of trees is a high risk. This may lead to future pressure to fell or prune trees (organic debris is a commonly cited source of conflict with parked cars and trees). Premature tree decline should root damage occur or soil conditions become adversely impacted is also a significant risk and mature trees are not always tolerant of disturbance or able to adapt to new conditions.

This element of the design requires revision to omit structures and parking from within RPA's.

Summary

Whilst in general I have no arboricultural objections to the development. I have accepted most of the recommendations / tree losses. However, the cumulative impacts to protected trees and the historic landscape setting from inappropriate design elements are a cause for concern in these specific areas of the site.

I cannot offer any support for these aspects of the layout. I also do not support the removal of G8.

If the planning decision supports the granting of planning permission for the current layout and accepts these risks, there may be a future conflict at the discharge of conditions stage if the harm to trees from any engineering solution or technical design is too great.

17.04.2024

Further to my conversation with Jon Kiely (JK) and recent discussions with Dan Vickridge, I have updated comments to make on the application.

I have no objection in principle to the development.

I continue to have professional reservations relating to the proposal to form an access to the 3 x parking spaces (Water Row). This is mainly due to the risks to existing and

retained trees and introduction of structures within the natural setting of this part of the site.

However, I do accept that technical solutions might be available to deliver a suspended roadway or porous load spreading surface to minimise or avoid ground intrusion, enabling the access and parking spaces to be formed. To that effect, if on planning balance you are broadly accepting of this design element, it will be necessary for a pre-commencement planning condition to be applied to any planning permission this element of the development. Suggested wording provided in italics below:

“Prior to the commencement of the development and subject to the approval of the LPA, a technical design and arboricultural method statement shall be prepared and submitted for a suspended roadway or (subject to soil analysis and structural engineering details) a load spreading, porous surfacing treatment e.g. cellular confinement system, for the new vehicle access (private light goods) and parking areas associated with Water Row. The approved design and arboricultural method statement shall be implemented on completion of the construction of Water Row for residential (non-construction) use only.

The car parking spaces and bin stores are also an area of continued concern and potential future pressure on any retained trees. Once again, if this design element is broadly acceptable in planning terms, pre-commencement planning conditions will be required to secure the technical design in conjunction with an arboricultural method statement. A variation on the suggested wording provided above should be sufficient.

I feel it would be remiss of me not to flag up the potential issue that the technical design might fail to satisfactorily address the concerns of my team upon submission, and therefore fail to be supported on a DoC application. To that effect, we would seek to continue engaging with the design team and arboricultural consultant to ensure that any submission is positively received any amendments etc are ironed out prior to submission. A collaborative approach will definitely result in better outcomes.

With regards to tree group G8, this again requires some further discussion between myself and JK as this is an impact to a mature tree group which adds landscape value and character to the property. This can be finalised with the submission of a Tree Protection Plan and tree work specification secured by a planning condition. This is a relatively minor issue to work through and I am confident we can agree a way forward.

My previous comments have highlighted (Points 1 – 7) where pre-commencement and more standard conditions will be required. Carefully worded pre-commencement planning conditions are essential to secure detailed design and method statement documents to satisfy my concerns over the impacts of the development, if the development is likely to be approved. I would be happy to review the wording of any such conditions prior to the application being determined and advise on any technical arboricultural content as might be required.

Highways:

20.09.2023

The Highway Authority supports the principle of the re-development proposals, however the following information will need to be provided prior to a recommendation being made:

- Prepare a design demonstrating how improved A379 Teignmouth Road bus stop provisions can be delivered, including footway and crossing provision;
- The Highway Authority would seek to ensure that the walking / cycling connection from the site to Seymour Drive is secured and maintained for the lifetime of the development;
- Confirm of the accommodation schedule for the proposed re-development;
- Amend the site layout plan to include provision for an additional 12 cycle parking spaces;
- Outline and demonstrate a suitable waste management strategy; and
- Provide swept path analysis of a large estate car to demonstrate that the layout of car parking spaces is feasible.

20.12.2023

The following items remain outstanding. These require resolution prior to the Local Highway Authority being able to make a positive recommendation:

- The Highway Authority would seek to ensure that the walking / cycling connection from the site to Seymour Drive is secured and maintained for the lifetime of the development;
- Provide further information / justification regarding proposals for public access to the site for pedestrians;
- Consideration of improved access to southbound bus stop on A379 Teignmouth Road;
- Amend the site layout plan to include provision for an additional 12 cycle parking spaces;
- Outline and demonstrate a suitable waste management strategy; and
- Provide swept path analysis of a large estate car to demonstrate that the layout of car parking spaces is feasible

19.04.2024

The Applicant has now resolved matters relating to connectivity with Seymour Drive, the bus stop improvements and cycle parking. The following matters however remain outstanding:

- Provide further information / justification regarding proposals for public access to the site for pedestrians;
- Confirmation that the previously proposed improvements to the bus shelter and associated footways continue to form part of the proposed development, alongside the retention of the existing fully on-carriageway bus stop;
- Outline and demonstrate a suitable waste management strategy; and
- Provide swept path analysis of a large estate car to demonstrate that the layout of car parking spaces is feasible.

Once these matters have been resolved the Local Highway Authority will be able to raise no objection.

23.04.2024

The Highway Authority have reviewed this drawing and have found the removal of the tree resolves the concern we had previously raised with the parking layout and the newly provided swept path analysis is satisfactory.

Concerns have previously been raised regarding waste management on the site, however, the Highway Authority note that Swisco Waste have provided their own consultation response to this planning application and thus this matter to has been deferred to them.

An outstanding matter the Highway Authority have previously raised is in regard to public access to the site and gardens for pedestrians. No further information has been provided on this issue and should be clarified.

Additionally, for completeness please can the applicant set out that that following the investigation of alternative bus stop layouts, it was deemed safest for the existing fully on-carriageway bus stop to be retained.

13.06.2024

Since this previous consultation, the applicant provided an updated plan (Drawing no. 2106-015_SP03- B) which demonstrated the ability of a large estate car to use the car parking spaces. This item was therefore resolved in email correspondence dated 23/04/2024.

2.0 Public Access to the Site

2.1 The Movement Strategy which has been provided by the Applicant contains confirmation that the existing east-west public access through the site will be retained. This means that the public will still be able to travel through the site between A379 Teignmouth Road to the east and Seymour Drive in the west. Public access will still be retained between Seymour Drive and the existing footpaths in Brunel Woods to the south of the site. This item is now resolved.

2.2 A suitably worded conditions should be attached to any planning consent for this site to ensure that this access remains available for the life of the development, and that gates or other barriers to access are not introduced to prohibit public access. A suitably worded condition should also be considered to make the publicly accessible paths dedicated Public Rights of Way (PRoW) to ensure their continued availability.

3.0 Bus Stop

3.1 The Movement Strategy provided by the Applicant states that a bus layby within the site ownership is to be added. However, the applicant has yet to fully clarify the proposals relating to the bus stop at the site entrance. This item remains outstanding.

It is the preference of the Highway Authority that the retention of the existing fully on-carriageway bus stop remain.

4.0 Waste Management Strategy

4.1 The previous response provided by the Highway Authority requested that the applicant outline and demonstrate a suitable Waste Management Strategy.

4.2 In principle, the strategy proposed by the Applicant is satisfactory. The proposed strategy is for residents to transport waste to the bin store, with the private management company who manage the development site to transfer the waste bins on collection days from the resident's bin stores to secondary bin stores on the site which are accessible within 25m of the refuse vehicle.

4.3 The Waste Management Strategy provided by the Applicant does provide swept path analysis of a refuse vehicle, however it is not clear from the plan provided (Drawing No. BMN-APG-XX-ZZ-DR-A 0010 A) the dimensions of the refuse vehicle which has been used for this swept path analysis.

5.0 Conclusion

5.1 In conclusion, should planning consent be granted for this proposed development, suitably worded conditions should be attached to any planning consent for this site to ensure that this access remains available for the life of the development, and that gates or other barriers to access are not introduced to prohibit public access. A suitably worded condition should also be considered to make the publicly accessible paths dedicated Public Rights of Way (PRoW) to ensure their continued availability.

Recommended Condition:

Public access through the site must be retained, maintained and remain open, specifically for routes shown on 'Movement Strategy Drawing No 0009 Rev P2':

- East-west through the site, between A379 Teignmouth Road to the east and Seymour Drive in the west
- Between Seymour Drive and the existing footpaths in Brunel Woods to the south of the site. No gates or barriers shall be introduced at any point that prohibit public access.

Reason: To ensure existing places of recreation and leisure remain open and encourage sustainable transport, as per NPPF (Dec 2023) para 116a.

Devon County Council Ecology:

10.01.2024

No objection subject to condition.

The BNG metric has been completed correctly and it appears that a 100% net gain can be achieved within red/blue line boundary.

I note that the landscape proposals are only 'indicative' and it is only clear the location of the proposed trees – it is unclear where the woodland and grassland enhancement onsite is occurring. It is also unclear whether these enhanced areas of habitat will be

subject to recreational issues or public access, which may make habitat enhancement difficult.

I appreciate this this all is ahead of BNG becoming a statutory requirement, so we can discuss this being provided as a pre-commencement condition rather than requiring this information prior to determination. I suppose it is up to you as to how you want to deal with these outstanding issues – fundamentally, I believe that a net gain in biodiversity will be achieved through the measures supplied in the metric and EclA.

NHS Primary Care:

The proposed development is for 35 dwellings and this will create an estimated of population of 76 new residents within the development based an average household size of 2.17.

The closest GP surgeries to the proposed development are:

- Brunel Medical Practice - St Marychurch Surgery
- Chilcote Practice - Chilcote Surgery
- Brunel Medical Practice - Babbacombe Surgery

It is envisaged that the vast majority of the residents of the proposed development will register as patients with these practices. The current combined medical centres providing primary care are up to their capacity and will not be able to absorb the increased patients arising from the proposed development. The only way to mitigate the impact is to increase the physical capacity of the existing surgeries.

Total contribution required = £21,734

Waste:

29.08.2023

In terms of recycling and waste collection from this development I have some concerns and I would like to object to this development.

Section 12 of the Access Design Statement shows four recycling and waste storage areas and indicates that collection vehicles will need to drive on to the development to collect from the storage areas. SWISCo will not drive on to unadopted highway to collect recycling and waste unless the highway is built to adoptable standards and a formal indemnity is in place. Without this, all recycling and waste would need to be brought to the adopted highway for collection. A suitable place to leave the containers with an area adequate for the collection vehicles to safely stop and empty the containers would be required.

Although not stated specifically the recycling and waste arrangements appear to be a communal arrangement, with four bin stores to serve all properties. There is no information about how many properties will feed into each of the bin stores, so I have been unable to make any judgement on the adequacy of the arrangements in terms of capacity and distance from the domestic properties feeding into each bin store.

I would like to request the higher rate of waste management contributions for this development, in line with the table below.

16.05.2024

- The width of the current road is adequate, although in some areas trees and vegetation are overgrown and overhanging in some parts. The trees and vegetation would need to be kept cut back so that our access would not be compromised.
- Some concern about the amount of space to turn our collection vehicle, this is why I was hoping to look at the swept path analysis, as I need to check the vehicle size that they have used.
- Related to the above point, as turning space seems limited, how will parking on the site be managed? Because the highway will remain unadopted, we are concerned that vehicles parked outside of allocated spaces might block access for us.
- The surface of the current road is quite poor, we would expect this to be finished to adoptable standards if we were to enter into an indemnity.

Drainage:

14.08.2023

1. The developer has submitted a site specific flood risk assessment for the development which includes a proposed surface water drainage strategy.
2. The developer is proposing to discharge surface water drainage from the development using soakaways and permeable paving.
3. Details of the site investigation carried out on the site have been included within the support documentation. This site investigation confirms that the only infiltration testing that has been carried out on the site is using falling head permeability tests within three of the boreholes. As identified within the developer enquiry response for this development in order to confirm whether infiltration techniques such as soakaways and permeable paving are suitable, infiltration testing in accordance with BRE365 must be undertaken at the proposed location of the soakaways and permeable paving. In addition, the infiltration testing must be undertaken at the proposed invert level of the soakaways and formation level of permeable paving. The use of falling head permeability tests which have been carried out in small diameter boreholes are not acceptable.
4. It must be highlighted that the site investigation undertaken on behalf of the developers identifies that if soakaway drainage is to be used full scale in-situ infiltration testing in accordance with BRE365 will need to be undertaken at the location and depth of the proposed soakaway.
5. In order to design the required soakaways and permeable paving infiltration testing in accordance with BRE365 must be carried out in accordance with item 3 above and the lowest infiltration test result from the three tests at each soakaway and permeable paving location must be used within the design of the soakaways and permeable paving. The use of an assumed infiltration test as has

been used within the submitted surface water drainage strategy is not acceptable.

6. The soakaways together with the surface water drainage system discharging to the soakaways must be designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100 year storm event plus 50% for climate change plus 10% increase in impermeable area for urban creep. Similarly any permeable paving must be designed to demonstrate that there is no flood risk on or off the site for the critical 1 in 100 year storm event plus 50% for climate change plus 10% increase in impermeable area for urban creep.
7. Due to the topography of the land and the risk of re-emergence of flows downstream, the soakaway design must also demonstrate that flows discharging from the soakaway will not result in an increased risk of flooding to property and land downstream of the proposed development. In addition, the site investigation under Section 7.6 clearly identifies that the soakaways will have to be located and designed so as not to cause slope instability or downslope re-emergence. No evidence has been submitted to demonstrate that these matters have been considered within the design process.
8. The only hydraulic modelling that has been submitted is for the size of the soakaways and the design of the permeable paving however these have been designed using an assumed infiltration rate which does not even comply with the comments about soakaway design within the site investigation report. No hydraulic modelling has been submitted for the surface water drainage system discharging to the soakaways which was highlighted as being required within the development enquiry consultation response.
9. The developer must supply a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels, invert levels, pipe diameters, pipe gradients, pipe lengths, pipe numbering used in the hydraulic modelling, soakaways, together with details of the impermeable areas discharging to each pipe length. All of this information is required to be included within the hydraulic modeling. Without this information it is not possible to confirm whether there is a risk of flooding to properties on the site for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep.
10. Based on the information that has been submitted to date, the developer has failed to demonstrate that the proposed surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep. In addition, the surface water drainage system must be designed in order that there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep.

Based on the above comments, before planning permission can be granted the applicant must supply the details requested above.

05.12.2023

1. The developer is proposing to discharge surface water drainage from the development using a controlled discharge to the existing on site combined sewer system.
2. Based on the information that has been submitted two surface water systems have been designed, each with a controlled discharge rate of 1.0l/sec. Giving a total discharge rate of 2.0l/sec. This discharge rate exceeds the allowable discharge rate, as identified in the Torbay Critical Drainage Area for a development of this impermeable area.
3. The Torbay Critical Drainage Area requirements identify any surface water discharge rate from the site to the combined sewer must be limited to Greenfield run off rate from the proposed impermeable area of the development for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 50% for climate change plus 10% increase in impermeable area for urban creep.. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec.
4. The only hydraulic modelling that has been submitted is for the size of the attenuation tanks. No hydraulic modelling for the surface water drainage system discharging to and from the attenuation tank has been submitted. The developer must demonstrate that the proposed surface water drainage has been designed in order that no property on the development is at risk of flooding and there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change plus 10% increase in impermeable are for urban creep.
5. The developer must supply a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels, invert levels, pipe diameters, pipe gradients, pipe lengths, attenuation tanks and pipe numbering used in the hydraulic modelling, together with details of the impermeable areas discharging to each pipe length. All of this information is required to be included within the hydraulic modeling. Without this information it is not possible to confirm whether there is a risk of flooding to properties on the site for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep.
6. Within the hydraulic modelling that has been submitted the depth/area of the attenuation tanks in both models has been incorrectly modelled. The hydraulic model for attenuation tank A identifies that at depth 1.2m the area is 108.5m² and at depth 1.3m the area is 0m² however this will be overpredicting the storage volume available within the tank. The attenuation tank must be modelled as follows, at depth 1.2m area is 108.5m² and at depth 1.201m area is 0m².
7. Based on the information that has been submitted to date, the developer has failed to demonstrate that the proposed surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 50% for climate change and 10%

for urban creep. In addition, the surface water drainage system must be designed in order that there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep.

Based on the above comments, before planning permission can be granted the applicant must supply the details requested above.

14.03.2024

1. The developer is proposing to discharge surface water drainage from the development using a controlled discharge to the existing on site combined sewer system.
2. The developer has supplied a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels, invert levels, pipe diameters, pipe gradients, pipe lengths, attenuation tanks and pipe numbering used in the hydraulic modelling, together with details of the impermeable areas discharging to each pipe length.
3. The proposed surface water drainage has been designed as two separate networks which have been identified as Network A and Network B.
4. In Network A, the impermeable area from the buildings has been connected into pipe lengths 1.003, 2.003 and 3.003. This means that within the hydraulic model no impermeable area discharges into pipe lengths 1.000 to 1.002, 2.000 to 2.002, 3.000 to 3.002 or 4.000. The drawing of the surface water network clearly identifies connections from the buildings to pipe lengths 1.000, 2.000, 3.000 and 4.000. The developer must review the hydraulic modelling to correctly identify where the impermeable area is connected to the sewer network.
5. In Network A the ground level for manholes S20 and S21 are identified as 149.759m on the drawing however within the hydraulic model the ground levels are identified as 149.800. Please review and amend accordingly.
6. In Network A the ground level for manhole S28 is identified as 149.759m on the drawing however within the hydraulic model the ground levels are identified as 149.800. Please review and amend accordingly.
7. In Network A the ground level for manholes S29 is identified as 149.759m on the drawing however within the hydraulic model the ground levels are identified as 149.920. Please review and amend accordingly.
8. In Network A the pipe diameters for pipe lengths 1.011 and 1.012 are identified as being 225m on the drawing however within the hydraulic model the pipe diameters are identified as being 100mm. Please review and amend accordingly.
9. In Network B the ground level for manholes S56 is identified as 146.273m on the drawing however within the hydraulic model the ground levels are identified as 14145.841. Please review and amend accordingly.
10. In Network B the pipe diameters for pipe length 1.005 is identified as being 225m on the drawing however within the hydraulic model the pipe diameter is identified as being 300mm. Please review and amend accordingly.

11. In Network B the pipe diameters for pipe lengths 1.006 and 1.007 are identified as being 225mm on the drawing however within the hydraulic model the pipe diameters are identified as being 100mm. Please review and amend accordingly.
12. Based on the information that has been submitted to date, it would appear that the proposed surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep. However, the drawing and hydraulic model need to be checked and amended in order that the details correspond.

05.04.2024

Further to your email dated 20th March 2024 attaching revised surface water drainage details for the above planning application I can confirm that providing the surface water drainage is constructed in accordance with the submitted drawings and hydraulic design, I have no objections on drainage grounds to planning permission being granted for this development.

Please note that this proposal is a second option for the surface water drainage at this development. The preferred method of draining surface water run-off is using infiltration drainage however infiltration tests at the proposed soakaway locations and invert levels cannot be undertaken at present. Once these have been undertaken the developer will have to submit the result of the infiltration tests together with the design of the surface water drainage and soakaways in order to demonstrate that there is no risk of flooding to properties on the site or any increased risk of flooding to land or property adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change and a 10% increase in impermeable area to allow for urban creep.

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

1. The developer is proposing to discharge surface water drainage from the development using a controlled discharge to the existing on site combined sewer system.
2. The developer has supplied a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels, invert levels, pipe diameters, pipe gradients, pipe lengths, attenuation tanks and pipe numbering used in the hydraulic modelling, together with details of the impermeable areas discharging to each pipe length.
3. The proposed surface water drainage has been designed as two separate networks which have been identified as Network A and Network B.
4. In Network A, the impermeable area from the buildings has been connected into pipe lengths 1.003, 2.003 and 3.003. This means that within the hydraulic model no impermeable area discharges into pipe lengths 1.000 to 1.002, 2.000 to 2.002, 3.000 to 3.002 or 4.000. The drawing of the surface water network clearly identifies connections from the buildings to pipe lengths 1.000, 2.000, 3.000 and 4.000. The developer must review the hydraulic modelling to

correctly identify where the impermeable area is connected to the sewer network.

5. In Network A the ground level for manholes S20 and S21 are identified as 149.759m on the drawing however within the hydraulic model the ground levels are identified as 149.800. Please review and amend accordingly.
6. In Network A the ground level for manhole S28 is identified as 149.759m on the drawing however within the hydraulic model the ground levels are identified as 149.800. Please review and amend accordingly.
7. In Network A the ground level for manholes S29 is identified as 149.759m on the drawing however within the hydraulic model the ground levels are identified as 149.920. Please review and amend accordingly.
8. In Network A the pipe diameters for pipe lengths 1.011 and 1.012 are identified as being 225m on the drawing however within the hydraulic model the pipe diameters are identified as being 100mm. Please review and amend accordingly.
9. In Network B the ground level for manholes S56 is identified as 146.273m on the drawing however within the hydraulic model the ground levels are identified as 14145.841. Please review and amend accordingly.
10. In Network B the pipe diameters for pipe length 1.005 is identified as being 225m on the drawing however within the hydraulic model the pipe diameter is identified as being 300mm. Please review and amend accordingly.
11. In Network B the pipe diameters for pipe lengths 1.006 and 1.007 are identified as being 225m on the drawing however within the hydraulic model the pipe diameters are identified as being 100mm. Please review and amend accordingly.
12. Based on the information that has been submitted to date, it would appear that the proposed surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep. However, the drawing and hydraulic model need to be checked and amended in order that the details correspond.

30.05.2024

1. Drawing number J-2918 3003C identifies the attenuation tank for the Network B surface water system as being 6m x 21.5m x 1.2m deep. This gives a plan area for the base of the attenuation tank of 129m². Within the hydraulic modelling for the Network B surface water drainage system the plan area for this tank is identified as being 150.5m² with a depth of 1.2m. As can be seen the volume of storage available within the attenuation tank identified on the drawing is far less than the volume of storage available within the attenuation tank identified within the hydraulic model.
2. Obviously, if the attenuation tank size identified on the drawing is correct, the developer must submit the revised hydraulic design with this tank size being included. If the tank size included within the hydraulic model is correct the developer must submit a revised drawing showing the correct attenuation tank dimensions.

3. All of the other issues raised in my previous consultation responses have been addressed.

31.05.2024

Further to your email dated 31st May 2024 attaching the revised surface water drainage drawing for the above planning application, I can confirm that providing the surface water drainage is constructed in accordance with drawing number J-2918 3003D and the submitted hydraulic designs, I have no objections on drainage grounds to planning permission being granted for this development.

Devon and Cornwall Police:

No objections. Comments included the need to take care over defining public and private space. Ensure clear signage is used where necessary. Recommend the use of door entry security. Recommend boundary treatment and hedges are at a suitable height to prevent unauthorised entry. Recommend that bicycle and bin stores should be lockable to prevent unauthorised access. Concern over the use of car parking away from the properties.

Historic England:

15.08.2023

Impact on the significance of Brunel Manor, Watcombe Park and Watcombe Park Conservation Area

The proposals involve the demolition of modern extensions to the main house, the construction of 9 new dwellings alongside landscaping and other works.

Historic England are supportive of the removal of the extensions at the eastern part of Brunel Manor. However, we have concerns about the visual impact that the proposed Woodland Row development would have in views within the Conservation Area and registered garden.

The Woodland Row proposals are incongruous in their design with the house. In their current form and position, directly to the east of the main house, the proposals would negatively impact on main views to the house within the garden, and on the approach to the house. They would erode the historic character of the Conservation Area and the surrounding parkland through their unsympathetic design, which does not adequately reference the aesthetic and architectural form of Brunel Manor.

We also have concerns about the form of the Water Row proposals, specifically their form. The proposed buildings similarly fail to respond to the historic character of Brunel Manor.

The flat rooflines of the Woodland Row and Water Row proposals do not respond to the gabled, pitched roofline of Brunel Manor, and would appear incongruous with the form of both the north and south elevations of Brunel Manor. The pink limestone chosen for the masonry elements of the Woodland Row would appear stark against

the grey limestone of the south façade, visually competing with the principal building in views from the south.

Historic England has concerns about the visual impact of the Woodland Row and Water Row proposals. We recommend that your authority seeks amendments on the form, materiality, design and massing of the buildings, which are currently incongruous with the historic character of Brunel Manor, and will cause harm to its significance, and that of the registered garden. (Para 195).

In our opinion the current proposals will not sustain or enhance the heritage assets that are affected by the proposals, nor make a positive contribution to local character (Para 197).

Due to the significant position of the sites within the Conservation Area and the designated landscape, the conservation of these designated heritage assets should be at the forefront of decision making. (Para 199). Once these amendments have been sought, the harm that is caused should be weighed against the public benefits that will arise from the proposals. (Para 200 & 202). We leave this exercise to your authority to carry out.

30.10.2023

We have been consulted on amendments to the application, in the form of a letter from the planning agent in response to our previous letter of advice.

Having considered the amended information, our initial letter continues to reflect our formal advice, and position.

Whilst we are supportive of the removal of the extensions at the eastern part of Brunel Manor, we maintain our view that the design of both the Woodland Row and Water Row elements of the proposals are incongruous with the character of Brunel House, and do not adequately reference the aesthetic and architectural form of Brunel Manor. The rectangular, modular form and flat roofs of the Woodland Row proposals are unsympathetic to the form and roofline of Brunel Manor. The use of pink limestone in the Woodland Row proposals, whilst aiming to appear reference the service elements of the house, will introduce a comparatively vibrant tone to the otherwise muted colour palette of the south elevation of the house. The proposed pink limestone would appear visually conspicuous in views within the conservation area and registered landscape. We also have concerns about the form of the Water Row proposals, specifically their rectangular form, and flat rooflines, which similarly fail to respond to the form of Brunel Manor.

Overall, we do not advocate for any new development to replicate Brunel Manor, but rather a design that greater references the form and materiality of the building and provides a more contextual response.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

Should your Council be satisfied that the proposals for housing as a replacement to ancillary buildings is acceptable in principle, we recommend that amendments are made to the design of those dwelling to reduce the harm that we have identified. We recommend that your authority seeks amendments to the Woodland Row and Water Row elements of the proposals that address the negative impact that their proposed design, form and massing would have on the Conservation Area, registered landscape and the setting of Brunel Manor.

Victorian Society:

Brunel Manor and the surrounding Watcombe Park form a significant group of historic buildings and landscape. Originally envisaged by Isambard Kingdom Brunel as the home for his retirement, he created a landscape with the help of his gardener Alexander Forsyth, on the advice of William Andrews Nesfield. Later Brunel commissioned Willaim Burns to design a house, only the foundations and basement being completed. In c1870 the existing house was constructed for JR Compton, a Lancaster industrialist. Despite changes of use and alterations the building is notable for its surviving historical features and 'eclectic detail'.

The proposed residential redevelopment of the site is in principle acceptable. However, the quantum and detail of the development raises concern. The subdivision of Brunel Manor into multiple units is acceptable but the proposed 13 units represents a concerningly high quantum of development. The principal interior spaces remain in good condition and the proposed insertion of 'pods' would harm their appreciation and the significance of the building. We recommend that a smaller number of units is explored that would allow significant interior spaces to remain as designed.

In principle there is scope for some new development within the site. However, the proposed residential units would harm the setting of the listed building and the significance of the registered landscape. Proposed so close to the historic building, the new units would detract from its perception within the landscape. This negative impact would be increased by their design which is at odds with the historic buildings on the site, this would emphasise their imposition on the historic landscape and contend with the listed building. A further concern is the number of cars that would be introduced into the site with the creation of so many dwellings, this would further encumber a landscape that should retain its historic character.

We recommend that options are explored for dwellings in more discreet parts of the site and that a design language inspired by C19 estate architecture would be more suitable for new development on the site. This extends to the proposed extensions to the lodge which would be successful if designed to complement the existing building.

The NPPF states: '199. 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 '206. Local planning authorities should look for opportunities

for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.’ Although the proposals will offer some heritage benefits such as the demolition of harmful C20 development on the site, they will not ensure the conservation or enhance the significance of the listed building, registered landscape or Conservation Area. We object to the application in its current form and recommend the applicant seriously reconsider their proposals.

Green Infrastructure:

No objection subject to below:

| No Bedrooms | No of Dwellings | Costs as per table 4.9 (£) |
|-------------|-----------------|----------------------------|
| 1 | 2 | £1,720.00 |
| 2 | 17 | £18,275.00 |
| 3 | 6 | £7,740.00 |
| 4 | 10 | £13,980 |
| | Total | £41,715.00 |

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

Consideration will also need to be given to the wider management of the adjacent Watcombe Woods (managed by Torbay Coast and Countryside Trust) and the provision for a permissive footpath through the site to enable pedestrian access to the Maidencombe are and south west coastal footpath.

Future management and maintenance of the gardens and wider area to dovetail with recommendations from Historic England

Affordable Housing:

06.09.2023

The LPA provided pre-application advice in February 2022, according to the applicant’s Planning Statement. This advice as summarised stated that the applicant was required to 20% affordable housing with Policy H2, subject to any viability. The tenure breakdown and any further details on the affordable housing provision are not recorded as having been discussed.

The applicant’s Planning Statement states that vacant building credit (vbc) should apply and this equates to no affordable provision being required. This is not recorded as having been discussed as pre-application stage.

Planning Practice Guidance (Planning Obligations) in relation to vbc is excerpted below:

“The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:
whether the building has been made vacant for the sole purposes of re-development
whether the building is covered by an extant or recently expired planning permission
for the same or substantially the same development. (Paragraph: 028 Reference ID:
23b-028-20190315).”

The Bettsworth report sets out why the current use is not sustainable to support the change of use application but does not indicate whether the buildings can or are being used for the original purpose until the application is determined. In fact the photos attached to Bettsworth report shows made up bedrooms and available operational rooms.

The applicant’s Planning Statement (6.38) states the following in relation to vehicle trips. This states that “the site’s assumed existing trip generation” is higher than the proposed residential use. This seems unlikely if the property is reportedly vacant.

“The development proposals are forecast to result in an overall reduction of vehicle trips when compared to the site’s assumed existing trip generation. This will therefore have a positive impact on the safety and operation of the existing local highway network. Overall, it is concluded that the proposed development should be considered acceptable on highway grounds.”

Given the contradictory information and lack of evidence contained within applicant’s submission, if the building is vacant, it has been made so for the sole purpose of re-development. As such there is still a requirement for affordable housing.

Principal Policy and Project Officer:

10.06.2024

There have been extensive discussions about Brunel Manor. Initial Policy comments were provided on 20th September 2023. There has been later correspondence on Vacant Building Credit and affordable housing. Policy conclusions accepting the case for VBC were set out in the email of 6th November 2023. This note seeks to summarise the key planning policy issues.

Torquay Neighbourhood Forum have provided a helpful detailed assessment of the proposal’s performance against the development plan, and this is not repeated here. There is strong local and national policy support for brownfield housing development and securing the future of an important Heritage Asset.

Brunel Manor is within the built-up area of Torbay in the Local Plan, albeit towards the edge of it. The major planning issues around the site are likely to be linked to the heritage and listed building/Parks and Garden/ Conservation Area (etc.) status of the site and the restoration of the woodland area. Policies SS9, SS10, C4, C5 and HE1 of the Local Plan and TT2 of the Torquay Neighbourhood Plan are central to consideration of the application. This will also affect trees, which are TPO’d, and ecology. The site is also partly covered by Local Green Space (TLGSB2 and TLGSM2). An integral part of the proposal will be the maintenance and enhancement

of the listed building and historic park and garden for posterity, and provision of public access.

There are drainage issues relating to the site. Policies ER1 and ER2 of the Local Plan are relevant, and Torbay is a Critical Drainage Area.

The proposal would create much needed housing on a brownfield site. Torbay has a significant housing shortfall at just under 2.2 years' supply. Policies SS3, SS13 and H1 of the Local Plan seek to support new housing in such circumstances. Policy TS4 of the Neighbourhood Plan directs development to previously developed sites. Additionally, the Presumption in Favour of Sustainable Development in paragraph 11 of the NPPF is a relevant material consideration. Substantial weight needs to be given to the delivery of housing in the planning balance. Affordable housing is considered separately below. The site's numerous Heritage designations, including its Listed and Conservation Area Status are "footnote 7" matters that can disable the "tilted balance" at Paragraph 11(d)(ii) of the NPPF. Although there is a very pressing need for housing, this cannot override the importance of conserving and enhancing the building and grounds for their historic and green infrastructure value.

Loss of Tourism

Brunel Manor is a tourism asset of some importance to Torbay in a spectacular setting. Policies TT1 of the TNP and TO2 of the Local Plan are relevant. The application is supported by a tourism assessment by Bettsworths which highlights the dated and small nature of the rooms, high maintenance costs and relative remoteness from other tourist attractions. The Manor was for many years operated as a Christian retreat and conference centre partly run by volunteers. I agree with Bettsworth's assessment that significant investment would be needed to bring the facilities up to a standard needed to cater for a modern tourism market or to re-purpose it for conference facilities.

The site is not located in a Core Tourism Investment Area and new hotels have recently been provided in more prominent Waterfront locations in Torbay. The English Riviera Destination Management Plan 2022-30 identifies a need to reduce the stock of bedspaces by 2% by 2027 in order to reduce the oversupply of outdated accommodation. On this basis I do not consider there to be a tourism objection in terms of the tourism policies in the development plan. In any event, safeguarding the Listed heritage assets and providing housing would provide strong policy reasons in favour of the proposal. The pressing need for housing is also relevant when considering the loss of the tourism facility.

Highways, Sustainable transport link and S106 obligations.

Some representations refer to the safety of the access onto the A379 Teignmouth Road. This is a matter for detailed highway comments. The Strategy team has argued that a cycling/footpath route between Maidencombe and Watcombe should be created. Maidencombe is largely car dependent (although it is on the no. 22 bus route). Pedestrians and cyclists have to use the main road which is closely bounded

by walls. Creating a public route through the site would improve road safety and reduce reliance on the private car. This is a matter for detailed discussion with Highways/Transport colleagues. I note that the police have advised for the need to demark public and non-public routes on the site.

Andrew Gunther's email of 7th December 2023 sets out more detail on this. Access through Brunel Woods to Brunel Avenue is a more direct route than via Seymour Drive. Along with heritage improvements to the building and grounds, the improvements of walkable/cycling routes is an important policy consideration. This is relevant to the discussion of Vacant Building Credit and achievability of affordable housing below.

S106 and CIL Matters

The site is within CIL Charging Zone 3. This reflects the higher viability that areas such as Watcombe Heights were expected to have, at the time when CIL was introduced. In such areas developments of 15 dwellings net or more are expected to cover infrastructure requirements through S106 obligations.

Sustainable Development contributions should be sought on the basis of the December 2022 version of the Planning Contributions and Affordable Housing SPD. The site is not CIL liable and therefore obligations for education, lifelong learning, open space, sustainable transport and waste management fall to be delivered through S106 Obligations, unless provided through on-site measures. The Education Team has confirmed a need for secondary school and Special Education Needs places in Torbay, but there is currently an oversupply of primary places. The proposal makes provision for improved public open space "on site" and therefore this element of public open space provision (open space at 25sqm/£315 per person at Tables 4.7 and 4.8 of the SPD) appears to be an on-site matter rather than requiring an off-site contribution.

The NHS has sought contributions for healthcare. The Planning Contributions and Affordable Housing SPD (December 2022) support these where development is not on an allocated Local Plan site. This applies to the current application.

S106 Affordable Housing /Vacant Building Credit

The proposal creates 35 dwellings. The application form states that there are 6 existing dwellings on the site, i.e. a net addition of 29 dwellings. Policy H2 of the Local Plan requires 20% affordable housing on brownfield sites, or 5.8 affordable dwellings (5.8 x 29). Torbay has a very pressing need for affordable housing, which is sought by Local Plan policy (H2) and TNP (TH4). However, Brunel Manor is not particularly close to facilities such as shops, schools etc. and the maintenance of the listed building and garden will probably require residents to pay service charges to a management company. On this basis there may be a case to accept an offsite contribution which would amount to about £827,600.

The applicant has argued that the application is entitled to vacant building credit (VBC) as per paragraph 65 and footnote 31 of the NPPF) on the basis that the current floor

area is 4,809 sq. m and proposed floorspace is 4,829 sq. m. so that no liability for affordable housing exists (6.48 of the Planning Statement). Both the former Housing officer (James Beale) and the Neighbourhood Forum have expressed concern at the lack of affordable housing. The applicants have argued (and provided legal advice) that VBC is legally binding. I remain of the view that it is a planning judgement, albeit one where the NPPF should carry significant weight, particularly where the Local Plan is out of date.

Paragraph 65 of the (2023) NPPF states that “*To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount (footnote 31: Equivalent to the existing gross floorspace of the existing buildings)*”.

Paragraph 28 (23b-028-20190315) of the Planning Practice Guidance provides additional advice on VBC:

Does the vacant building credit apply to any vacant building being brought back into use?

The vacant building credit applies where the building has not been abandoned.

The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- *the condition of the property*
- *the period of non-use*
- *whether there is an intervening use; and*
- *any evidence regarding the owner’s intention*

Each case is a matter for the collecting authority to judge.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- *whether the building has been made vacant for the sole purposes of re-development*
- *whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development*

There is no suggestion that Brunel Manor has been abandoned. However, the issue arises whether the building has been made vacant for the sole purpose of redevelopment. The building’s former long-term occupant was the Woodland House of Prayer Trust. Their website indicates that they vacated the building in 2021 because of changing needs and closer ties with a similar organisation as well as a consequence of Covid-19. Therefore, the building was not vacated for the sole purpose of redevelopment.

The intention of national policy is clearly to prioritise brownfield development. Michael Gove's letter of 8 September 2023 indicated that LPAs should be "open and pragmatic" to ensure developments are viable, and should make best use of small pockets of brownfield land. The government issued further guidance in February 2024 to strengthen planning policy for brownfield development and consulted on a general "presumption" in favour of brownfield development; although this has not (currently) been formally adopted.

VBC may reduce the delivery of affordable housing, which is the type of housing most needed in Torbay. But this is an "unintended consequence" of the widely supported policy of prioritising brownfield development and the reuse of buildings. It will assist the general supply of housing.

The Brunel Manor application entails significant amounts of building restoration and woodland management, as well as the improvement of walking and cycling routes in the area. As set out above, these are likely to be the most important planning considerations in view of the numerous designations relating to Brunel Manor and its grounds.

On the basis of the above, and assuming that heritage and accessibility matters can be satisfactorily resolved, then there is a policy case to apply VBC.

I understand that the application is not supported by a formal viability assessment, but that a reasonable assessment of the necessary restoration works would indicate that, should a formal assessment of viability be required, it is very likely to show that affordable housing could not be provided through S106 Obligation. I am aware that viability has been cited in VBC negotiations outside of Torbay. But there is no requirement in the NPPF or PPG for one to be provided as a pre-condition for granting VBC.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Development.
2. Economic Impact.
3. Design and Visual Impact.
4. Impact on Heritage Assets.
5. Impact on Landscape and Trees.
6. Impact on Residential Amenity.
7. Access, Impact on Highway Safety and Parking.
8. Ecology and Biodiversity.
9. Flood Risk and Drainage.
10. Recycling, Waste, Sustainability, Low Carbon.
11. Designing Out Crime.

1. Principle of Development

The Development Plan (i.e. the Local Plan and the relevant Torquay Neighbourhood Plan) is the legal starting point for determining planning applications, and proposals should be assessed against it. A judgement should be made as to whether a proposal complies with the Development Plan (when taken as a whole). Where the Development Plan is out of date in the case of applications such as this involving the provision of housing, it retains its statutory force, but the focus shifts onto the NPPF and presumption in favour of sustainable development.

In February 2024, the Department for Levelling Up, Housing and Communities reiterated its support for brownfield regeneration and published a consultation on further revisions to the NPPF to introduce changes to Paragraph 129(c) to give significant weight to the benefits of delivering as many brownfield homes as possible. However, the consultation does confirm the government's commitment to beauty.

Policy H1 of the Local Plan states that proposals for new homes within the Strategic Delivery Areas will be supported subject to consistency with other policies of the Plan and subject to nine criteria, notably including the need to provide a range of homes to meet the objectively assessed needs and maintain a rolling 5-year supply of deliverable sites. Letters of representation supporting the proposal highlight that the proposal would provide housing, whereas those objecting have raised concerns regarding the quantum of development and the housing mix. Letters of representation have also indicated that the application site is shown in the Local Plan. Objectors have raised concerns over the loss of employment uses.

Policy SS11 of the Local Plan states that development will be assessed against its contribution to improving the sustainability of existing and new communities within Torbay. Development proposals will be assessed according to whether they create a well-connected, accessible and safe community, protect and enhance the local natural and built environment, and deliver development of an appropriate type, scale, quality, mix and density in relation to its location.

The Government published the most recent Housing Delivery Test in December 2023. Torbay's result is 55% (i.e. between 2019-22 there were only 55% as many completions as the number of homes required). Torbay's most recent housing land supply, which was published in April 2023, stated that the Council has 2.17 years, which is a significant shortfall. Additionally, the Presumption in Favour of Sustainable Development in paragraph 11 of the NPPF is a relevant material consideration. Substantial weight needs to be given to the delivery of housing in the planning balance. Affordable housing is considered separately below. The site's numerous Heritage designations, including its Listed and Conservation Area Status are "footnote 7" matters that can disable the "tilted balance" at Paragraph 11(d)(ii) of the NPPF. Although there is a very pressing need for housing, this has to be balanced against the importance of conserving and enhancing the building and grounds for their historic and green infrastructure value.

Whilst government guidance pulls in somewhat different directions, there is a clearly stated government objective of boosting the supply of housing. Policies SS3 and SS13 of the Local Plan also set out a presumption in favour of sustainable development separately to the NPPF. There is a pressing need for housing in Torbay, and the site

is allocated for housing in the Development Plan. Accordingly, the presumption in favour of sustainable development is applied to applications involving the provision of housing.

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

- The application of policies in the Framework that protect areas or assets of particular importance, relevant to this application would be designated heritage assets, provides a clear reason for refusal (i.e. the “tilted balance” at Paragraph (d)i) or
- The impacts of approving a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole (i.e. the “tilted balance” at Paragraph 11(d)ii).

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

The previous site owners were a charity who used the site as Christian Retreat and Conference Centre. The evolved over time and was used as a residential institution where a limited number of staff were employed. The majority of staff appear to have been volunteers. The application is supported by evidence to confirm this view.

Policy TO2 of Torbay Local Plan is relevant as it states that tourism facilities and accommodation outside the Core Tourism Investment Areas that major a major contribution to the tourism offer will be protected. However, the policy states it will be permitted where:

1. The holiday character of the area and range of facilities and accommodation offered are not undermined; and;

2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.”

The site is within CIL Charging Zone 3. This reflects the higher viability that areas such as Watcombe Heights were expected to have at the time when CIL was introduced. In such areas developments of 1-14 dwellings are CIL liable at £70 per square metre, but developments of 15 dwellings net or more are expected to cover infrastructure requirements through Section 106 obligations.

Turning to Vacant Building Credit (VBC), paragraph 64 of the NPPF states:

‘To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.’

Footnote 30 of the NPPF states “*Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.*”

The NPPG further explains the NPPF’s VBC policy in paragraphs 26 to 28 as follows:

‘What is the vacant building credit?’

National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.’

VBC applies where the building has not been abandoned. The Courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property;
- the period of non-use;
- whether there is an intervening use; and
- any evidence regarding the owner’s intention.

Each case is a matter for the collecting authority to judge. The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the VBC should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- whether the building has been made vacant for the sole purposes of re-development.
- whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

The matter was debated during the application process. The applicant’s planning solicitor, Clarke Wilmott, submitted a legal opinion stating that VBC applies. For clarity, the Woodlands House of Prayer Church vacated the building in May 2021. They were a charity and operated on a not for profit basis, using voluntary staff. The property was subject to marketing and there is no evidence to suggest that the property was vacated solely for the purposes of redevelopment. Therefore, as there is no increase in floorspace, there is no requirement to provide affordable housing on the site. Given this, the comments from Torquay Neighbourhood Forum on affordable housing provision are satisfied.

Section 106 contributions are set out below:

Contributions table

Note: the contribution is multiplied by the number of units below re-calc

| Floorspace | in | Below | 60-79 | 80-108 | 109+ | Total |
|-------------------|-----------|---------------|--------------|---------------|-------------|--------------|
| sq.m | | 60sq.m | sq.m | sq.m | sq.m | |
| | | | | | | |

| | | | | | |
|-------------------------|------|--------|--------|--------|-----------------|
| Number of units on site | 1 | 6 | 7 | 21 | 35 Units |
| Sustainable transport | £860 | £1,075 | £1,290 | £1,398 | £45,698 |
| Education (secondary) | £0 | £2,893 | £3,623 | £4,327 | £133,586 |
| Education (post16) | £0 | £1,199 | £1,434 | £1,694 | £52,806 |
| Education (SEN) | £0 | £3,145 | £3,977 | £4,717 | £145,766 |
| Lifelong learning | £157 | £214 | £292 | £337 | £9,402 |
| Waste management | £162 | £162 | £162 | £162 | £5,670 |
| Public open space | | | | | £41,715 |
| | | | | | £392,928 |
| Monitoring @5% | | | | | £19,646 |
| Total | | | | | £412,574 |

Other site related costs include Legal fees and Biodiversity Net gain within the blue boundary of the site.

The NHS has sought contributions for healthcare. The Planning Contributions and Affordable Housing SPD (December 2022) support these where development is not on an allocated Local Plan site. This applies to the current application and the NHS Primary Care contribution is calculated as £21,734.

Matters relating to the designated Local Green Space and Urban Landscape Protection Area are covered in Section 5 of this report.

The presumption in favour of sustainable development applies considering that the Council's 4-year housing supply shortfall and, as a matter of principle, the loss of tourism use does not present any adverse impacts that would significantly and demonstrably outweigh the benefit of granting permission.

For the reasons above, the principle of the change of use through the sites redevelopment from the former tourism, religious use to residential is considered to be aligned with national guidance contained within the NPPF and aligned with the aspirations of the Development Plan, specifically in regard to the aims and ambitions of Policies SS3, SS12, H1 and TO2 of the Torbay Local Plan and Policies TS4 and TT1 of the Torquay Neighbourhood Plan.

2. Economic Impact

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort.

Policy SS4 of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the Bay.

Policy SS11 of the Local Plan (Sustainable communities) explains that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

As discussed previously, staff numbers were extremely low at the site when used as a Christian retreat and much of the staffing was undertaken by short term volunteers. The operation was largely undertaken by a manager who facilitated training sessions, welcomed guests and organised property maintenance. A hotel viability report prepared by Bettesworth concludes that due to the location of the site outside the core tourism area and the cost of redeveloping the site a hotel use is unviable. It is therefore unrealistic to use the potential job yield that could be achieved from a hotel use as a comparison in this specific location.

The proposal would generate a number of significant economic benefits. The proposed development will support shops and services in the area through increased retail spend and household expenditure to support the local economy. The development will also generate additional Council Tax returns providing a critical source of revenue funding for the local authority in delivering services as well as investing in the local area. Other benefits include the breadth of jobs during the construction period.

As discussed previously, Torbay cannot demonstrate a 3 or 5-year housing land supply, and therefore significant weight is given to the provision of additional housing. The demonstrated economic benefits of new housing is a material factor in this respect.

It is considered that it complies with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan, and would bring economic benefits to the Bay.

3. Design and Visual Impact

With regards to design, the NPPF requires good design to create better places in which to live and work and to make development acceptable to communities. Developments should be well-designed and take the opportunities available for improving the character and quality of an area and the way it functions. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE5 of the Local Plan states that extensions should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy TH8 of the Torquay Neighbourhood Plan states that

development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The key elements can be summarised as follows:

- Pre-application enquiry and engagement with Torbay Council – November 2021 to April 2023.
- Pre-application enquiry to Historic England - July 2022.
- Design Review – September 2022.
- Public Consultation and liaison with key stakeholders – March to April 2023.

A Design and Access Statement (DAS) (by APG Architecture) and a Landscape and Visual Appraisal (LVA) (by landscape advisors Viridian Landscape Planning). The LVA considers the likely visual effects of the proposal which are linked to a proposed landscape strategy and restoration plan for the site.

For clarity the proposal has been broken down into each distinct element:

Demolition

The removal of later additions to the Manor on each side is fully supported. This element of the proposal allows a reduction in scale of the entire built form and allow space for further development around. The swimming pool within in the grounds is clearly a priority for removal given the impact of it's dated design and impact on the sweeping views across the site when looking north. Other demolition around the lodge allows the building to be read in its original form.

The wider group

The removal of later additions and buildings allows two new built elements, Water Row and Woodland Row to the east and west of the Manor, conversion and improvement to The Court and extension to the lodge to the north east. The group of new buildings sit at an appropriate distance from the Manor allowing old and new to be read to complement each other. There is sufficient public space and landscape features to support this comparative low level of new built form given the significance and scale of the Manor.

Brunel Manor

The critical benefits to this part of the proposal are the removal of the large scale buildings and additions associated with the Manor. The reinstatement of the new canopy and wider, adjoining landscape allows the building to be read as it was intended. There is little external evidence of the compartmentalism required to create the new residential units which is a key part of the success of the scheme.

Woodland Row

Woodland Row sits to the east of the site, set back to the east of the Manor House. The proposals are sensitively nestled into the landscape, working with the existing contours of the site. It consists of six units arranged in three blocks.

This element of the proposal underwent various refinements, particularly following the Design Review Panel process. The location was broadly supported, however the design evolved to that submitted to nestle into the topography, taking cues from the landscape, rather than overly replicate the architectural style of the Manor. The new dwellings seek a modern architectural form and style, with simplified detailing. There would be a clear gap between old and new with sight lines between enabling views through and out of the site. Each block would be two storeys to the north and three to the south which would integrate appropriately into the landscaped form. A landscape restoration plan shows how this approach would be supported by the density of retained planting and newly managed vegetation.

The parking, access and gardens have been arranged in a way to minimise impact on the landscape and to simplify the interaction between spaces around the buildings.

Given the topographical changes to this new built element a condition has been suggested to precisely understand the finished floor levels. This is required to be a pre-commencement condition to ensure this element is constructed in a satisfactory manner.

Water Row

Water Row sits to the north west of the site, set back to behind the Manor House. The proposals are sensitively arranged in line with the woodland, sat in the clearing created by the tennis courts and opening views where the kitchen garden used to belong, just outside today's site boundary. Water Row consists of three units and a mixture of detached and semi-detached.

This part of site was described by DRP as an appropriate part of the sensitive site to develop. Originally in a 'U' shape design, the new 'T' and inverted 'L' approach would be set back from the Manor at a higher level given the former use as tennis courts. The relationship with the wall to the north is kept low and quiet given the building heights. The layout would be narrow and running east to west to keep the built form as being read differently from the established grandeur of the Manor.

Both new build elements at Woodland Row and Water Row require an appropriate palette of materials and details to ensure their success. Given the comments from Historic England and the Victorian Society it would be appropriate to provide comfort around key details which are covered in the suggested conditions below:

- Materials for each building.
- Details of boundary treatments.
- New windows and doors.
- Finished floor levels.

Brunel Lodge

This is the primary entrance to the Manor site and has been modified extensively over the years. The residential units within would be rearranged to improve the use of space. An addition is proposed to the west to form a second residential unit. This is

considered to be a sensitive addition which works with the architectural language and scale of the original.

Given the various distinct elements of this proposal around landscape changes and improvements, demolition, renovation and re-use and new build it would be appropriate to seek clarity on any phasing of the works. A condition is suggested to provide a phasing plan to understand how the development will be implemented in relation to an agreed timetable of works.

The proposal is considered to be in accordance with Policies DE1, DE5 and SS10 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

4. Impact on Heritage Assets

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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”*.

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

Paragraph 203 of the NPPF goes on to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 of the NPPF considers that *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*.

Paragraph 206 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), requires clear and convincing justification.

Paragraph 208 of the NPPF outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

With regards to non-designated heritage assets, Paragraph 209 of the NPPF advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 210 of the NPPF confirms that should a heritage asset be lost either wholly or in part, local planning authorities should take all reasonable steps to ensure that the new development will proceed after the loss has occurred.

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy BE1 of the Neighbourhood Plan confirms that proposals which affect designated and non-designated heritage assets must comply with the requirements of the NPPF and relevant policies of the Local Plan. Policy BE1 goes on to state that all developments should ensure a high quality of design that respects the specific character and historic legacy of each settlement and the surrounding area.

Brunel Manor sits with part of its former grounds at the north eastern edge of Torquay, within Watcombe Park and the Watcombe Park Conservation Area. The site was originally acquired by Isambard Kingdom Brunel between 1847 and 1857 and was intended to be his retirement home. Brunel's ill health led to the sale of the site in 1859, just days before his death; only the foundations and cellars of his planned house had been completed at this time.

The parkland's construction began in 1848, in advance of the construction of Brunel's house and was predominantly designed by himself. The drive approach from the west to the house was designed with planting, where some larger trees and herbaceous shrubs still exist. The 1st edition OS map shows mature trees planted immediately to the east of the house, but these have been removed to accommodate an extension and car parking. As noted in the Conservation Area Appraisal the tree coverage contributes towards the character and appearance of the Conservation Area.

The current house was completed in around 1870 by J Watson for JR Crompton, a paper manufacturer from Lancaster, on the site of Brunel's intended house. Brunel Manor is a large and highly eclectic late Victorian mansion, constructed from limestone rubble, with bath stone dressings and predominantly pitched, slate roofs. The gabled dormers and barge boarding of the south elevation have created a Gothic house that is enhanced by its position within the designed landscape.

Designations

The property contains four Grade II Listed Buildings:

- Brunel Manor, which includes Brunel Court and Brunel Lodge – the subject of this application.
- Two flights of steps with balustrades to south of Brunel Manor.
- Balustrades to south terrace of Brunel Manor also covers both the Listed flights of steps and balustrades).
- Gate piers and walls at entrance to Brunel Manor.

A Heritage Statement by AC Archaeology has been submitted in support of the application.

The entire site falls within the Watcombe Park and Brunel Manor Grade II Registered Park and Garden. This designated area is, however, larger than the current property, and extends slightly to its northwest, and to the south and then southeast and southwest of the present Brunel Manor. Its boundaries define the surviving extent of Watcombe Park, along with some developed land along Seymour Drive to the northwest of Brunel Manor. Watcombe Park was historically much larger.

Brunel Manor now comprises less than 10% of the land originally purchased by Brunel for his park and wider estate.

The whole property lies within the Watcombe Park Conservation Area. Brunel Manor is at the centre of this designated area and includes the whole of the Registered Park and Garden. It also extends southeast taking in early and mid 19th century villas alongside and to the east of the A379. Most of these villas predate the completion of Brunel Manor. They include Watcombe Lodge rented by Brunel whilst he was developing his mansion at Watcombe.

In summary, the proposed works would create the following:

| Site/building | Type | Total |
|---------------------------------|-----------------|--------------|
| | | |
| Conversion of Brunel Manor | 2 bed house | 1 |
| | 3 bed house | 2 |
| | 2 bed apartment | 13 |
| | 3 bed apartment | 1 |
| | | |
| Total in listed building | | 17 |
| | | |
| Conversion of Brunel Court | 1 bed house | 2 |
| | 2 bed house | 3 |
| | 3 bed house | 2 |
| Conversion of Brunel Lodge | 3 bed house | 1 |
| | 4 bed house | 1 |
| New build | 4 bed house | 9 |

| | | |
|--|--|-----------------|
| | | |
| Total conversions and new build | | 18 |
| | | |
| Total | | 35 units |

Although this report relates to the planning application, for the clarity, works requiring listed building consent include:

- Demolition of 20th century, unsympathetic extensions, alterations and additions.
- A variety of repair and restoration work.
- A new walkway canopy on the south and west elevations.
- New window and door screens following alterations.
- New glazed screens and door screens of the north elevation.
- New glazed door screens on the east elevation.
- Internal works including the insertion of new WC pods.
- Formation of a small number of new openings to facilitate access between rooms.
- Removal of service stairs in north west wing.
- Removal of some internal fabric to facilitate residential conversion.

Significance

The grade II Listed Building of Brunel Manor is of 'national importance'. Its significance derives from its architectural, aesthetic, artistic, and historical values, as well as several aspects of its setting. Its architectural and historical values are considered the most important, but with the others also contributing to its significance at a high level. Brunel Manor is also an important building locally, considering Isambard Kingdom Brunel time spent in Torquay and Devon during the last decade of his life. It is considered to be a heritage asset of high significance.

Brunel Manor's architectural value relates to its design as a Victorian villa. It has group value with other large villas and their associated grounds locally in Watcombe and wider Torquay.

During the 20th century many alterations and extensions were undertaken to create a conference centre. This included the creation of a first floor above the Rodenhurst Room, construction of a dining room extension on the footprint of a veranda and upper terrace, subdivision of historic bedrooms on the upper floors, compartmentalisation of corridors to create fire barriers, and construction of the conference room and residential accommodation. These modern changes do not contribute to the significance of the building.

Brunel Manor has aesthetic value relating to its architecture, internal fixtures and finishes, particularly visible in the ground floor reception spaces and rooms. There is a clear relationship between the house and gardens.

There is also artistic value relating to the quality of its fixtures, fittings and finishes. This largely relates to the high level of investment in the building.

The significance of both Brunel Court and Brunel Lodge is drawn from their architectural, historical and aesthetic values and from aspects of their setting, all at lower levels. The buildings are also important for their group value with Brunel Manor, as part of the later 19th-century development of Watcombe park. They are considered to be heritage assets of low significance.

The designated landscape is summarised most clearly within the Watcombe Park Conservation Area Character Appraisal as:

'The ensemble of the listed Brunel Manor and the registered Historic Park and Garden are combined in the Watcombe Park Conservation Area, both contribute to an area of local distinctiveness and national importance. They form an attractive and environmentally sensitive part of Torquay. The origins of the historic park and its association with possibly the most famous of the great 19th century engineers gives the conservation area much of its historic status and a uniqueness, for there is no other landscape known to have been created by Brunel.'

Brunel Court and Brunel Lodge are the principal ancillary buildings to Brunel Manor. Brunel Court is the former stable block complex already converted into five residential units. They can be considered to be curtilage listed in relation to Brunel Manor. Both date to the 1870s with extensions in the same decade at the latter. Both buildings have been extended as well as altered internally, which has impacted on their significance.

The important elements contributing to the character of the Watcombe Park Conservation Area are summarised in the CAA:

- *first and foremost Brunel's unique designed landscape of the 1850s aided by Forsyth, with the historic house of 1870 including the early work by Burn, and Nessfield's later work;*
- *the large extent of remaining open space within the historic park, including the extensive network of footpaths in Brunel Woods provided for public recreation;*
- *the 19th century villa development orientated towards the sea, some of which remain significantly unaltered, including the original spatial arrangement, roof profiles, stacks and original pots, etc;*
- *the range of historic frontage and layout forms employing an intricacy of detail, and using a range of materials including mid-19th century decorative stucco cornices and moulding, and the later-19th century use of polychromatic building materials;*
- *the survival of a high proportion of period detail, both internal and external, such as original sash windows with their glazing bars, stained glass, moulded architraves, and panelled doors, shutters and reveals;*
- *the survival of boundary walls using local grey limestone and red sandstone;*

- *the location of the Watcombe Beach Road public car park, providing access to an unspoiled beach; the Valley of the Rocks; woodland and coastal walks with access to the South West Coast Path;*
- *extensive tree cover and tree groups which often act as an important foil to buildings, especially in the Beach Road area.*

Impact on Brunel Manor

Turning to impact, the key buildings are identified as the existing Manor House, Brunel Lodge and Brunel Court and the Gardens and wider landscaping.

. The removal of the 20th century extensions will enhance Brunel Manor internally and externally. A number of the large existing rooms have been split into small bedrooms at the upper levels, abutting newer partition walls to windows which occasionally cut across multiple rooms. In places this has created compromised proportions for rooms and obstructed some of the existing coving and original features. Additional boxing around feature staircases, covering of tiled floors, commercial kitchen features have undermined the character and fabric of the building. The proposals for the Manor House look to strip these interventions back to reveal and repair existing key features and reinstate the grand architectural proportions.

The principle of the formation of new residential units is generally supported. The majority rely on removal of stud walls, various mechanical and electrical installations to enable the reformation of the original rooms. Bathroom pods have been proposed following a lengthy design process to ensure they are essentially removable whilst limiting the impact on the room proportions. Unit 4 in particular required a sensitive approach to gain access to the upper floor. The pods are designed to be a light touch intervention, ensuring there is no damage to the historic coving or skirting where they meet with sensitively scribed detail around the timber or plaster profiles. A 10mm offset is proposed which intersects with a shadow gap, elevating the design of the insertion and ensuring the modern intervention does not damage the historic fittings. The impact of the internal works is fully supported.

The proposals include the removal of some original internal partitions and service staircases, but these losses have been mostly kept to the service wing and have been kept to a minimum. This has been necessitated by the existing layouts in this wing, accessed from corridors arranged around the historic kitchen and dining room, and with an odd arrangement of staircases to the upper floors. This cause some harm, as it will permanently remove the layout of some rooms. However, the key intact historic spaces within this range, specifically the kitchen and dining room with bedroom over the latter, will be retained and converted.

The proposals for Brunel Manor include both positive and negative elements. Much of the work is focused on the renovation of the Listed Building that has been vacant for nearly four years. There are a number of structural issues that need to be rectified through a viable long-term use for the building which is considered positive. The

Statement of Heritage Significance states that the overall the proposals would result in a negligible positive change to the significance of Brunel Manor.

The blind arcading in the north elevation of the ballroom/Rodenhurst Room is to be opened up and new glazed screens and doors added. Conditions have been suggested to ensure the details are at an appropriately high level.

For clarity, within the gardens there are two flights of steps with balustrades to south of Brunel Manor which are listed. There would be no alterations taking place only adjoining resurfacing. Repairs are also underway following anti-social behaviour issues. Given the sensitivities to this part of the site and the associated change around them as part of the development, a condition has been suggested to require the submission of a Method Statement to protect these important garden features.

The gate piers and walls at entrance to Brunel Manor are also listed but no alterations are included with this scheme, only sensitive repairs.

Historic England were consulted at pre-application stage. During the application they have provided two consultation responses. Clearly, there is support for the removal of the modern extensions. However, they are silent on the implications for Brunel Manor forming part of this listed building consent. Wider issues and concerns are considered in the Officer report for the listed building consent application.

The Victorian Society are supportive of the residential conversion of Brunel Manor, however, raise some concerns over the quantum of development. The insertion of 'pods' is a concern. This matter is discussed above and would be entirely reversible. The room proportions would still largely be read.

A number of conditions have been suggested to ensure the significance of the heritage asset is maintained and dealt with appropriately. These are considered proportionate whilst recognising the significance of the building:

- protect architectural features.
- materials.
- schedule of works.
- written scheme of investigation.
- police recommendations.
- joinery details.
- schedules of repair.
- matching details.

Conclusion on significance

In conclusion, as a Grade II Listed Building Brunel Manor is of 'national importance'. Its significance derives from its architectural, aesthetic, artistic, and historical values, as well as several aspects of its setting. Of these, its architectural and historical values are considered of most importance, but with the others also contributing to its

significance at a high level. Brunel Manor is also an important building locally. It is considered to be a heritage asset of high significance.

The setting of listed buildings

Early engagement through the pre-application advice process and DRP were critical in assessing where new development could be achieved whilst carefully considering the setting of Brunel Manor given the potential impact on its setting. The process considered the preservation of the formal and less formal parkland and gardens around the listed building. The valley topography of the house and its surrounding gardens therefore forms one part of its setting contributing to its significance.

It is clear that the later buildings and additions compromise the overall setting of Brunel Manor and their removal is fully supported.

In terms of the other listed structures within the site:

- The two flights of steps with balustrades to south of Brunel Manor will be retained and fully restored.
- Balustrades to south terrace of Brunel Manor also covers both the listed flights of steps and balustrades). The removal of the swimming pool will clearly have a positive impact on the setting of this feature. It will enable them to read clearly without interference from the poor quality built form.
- Gate piers and walls at entrance to Brunel Manor will remain unaltered. The only impact on setting of these structures are the changes to Brunel Lodge. The building will be brought back into a residential use, removing poor quality additions. The new build element will lie to the rear and will have a minimal impact on the setting of the piers.

Conclusion on impact on setting

The presence of the listed Manor, Brunel Court and Brunel Lodge, balustrades and stairs, piers, the Conservation Area, within the Registered Park and Garden means that due consideration must be given to the impact of the proposed development on the setting of these heritage assets. The Heritage Statement has demonstrated that there is no significant negative impact upon the setting of these assets by the proposed development.

Woodland Row

The lower part of the valley to the east of Brunel Manor, Woodland Row accommodates three stories terraced into the bank, to create a lower height of two storeys from the north. The topography allows them to be lower in the landscape than the ground level of Brunel Manor so they sit subserviently to the main house. The six units would be arranged in three blocks. This followed guidance advice from the DRP around a respect for the setting of Brunel Manor, assimilating with the wooded areas between the main house and the Teignmouth Road. The elevations change on each block, with stone used at all levels with a timber roofscape. Further into the woodland the units change to a timber block on a stone plinth.

Woodland Row will be within the setting of Brunel Manor but would blend into the woodland. It replaces the attached conference room and is beneficial both through the more respectful design (to both Brunel Manor and its grounds) and through the separation of the development from the Listed Building. It would be separated by the restored garden to the east of the house on the uppermost of the historic terraces.

Water Row

Similar to Woodland Row the layout and architectural treatment was developed into the final proposal following advice from Design Review Panel and Officers into a proposal which will result in a visual change to the existing landscape but one subordinate to the significance of Brunel Manor. The units have been designed to fit in at the same roof height as existing development of Seymour Drive, forming low units respecting the topography to the north of Brunel Manor.

Water Row is also in the setting of Brunel Manor but not within the key views. It will be visible in the approach by vehicles but will be partially shielded by the trees above and to the north of the approach to Brunel Manor. Car parking has been sensitively located. This includes pulling spaces away from the entrance to Brunel Manor and enhancing the final approach to the building, removal parking from within the yard of Brunel Court, reusing the open parking area within the woodland, and creating smaller blocks of parking elsewhere including within wooded areas reducing their visibility in the local landscape.

Brunel Lodge

It is proposed to remove the two north west extensions, the south east extension, and the range of outbuildings and to replace them with a single one and two storey northwest extension. This is to be constructed of rubblestone on the ground floor with timber cladding to the first floor. This will create a clear architectural distinction between the primary lodge building and the new extension whilst using materials that are in keeping with the character of the buildings on site. The location of the extension to the rear of the lodge with a change in roof level so it drops down to a single storey on the southwest side makes it subservient in key views of the lodge from the southeast and southwest. It is also proposed to reinstate the veranda on the main façade. This has been designed in the style of the historic veranda as recorded in old photographs and drawings of the house. This will restore this element of the house and its garden improving its aesthetics and setting.

This element of the scheme will remove the extensions and restore the main façade through the reinstatement of the windows and veranda. The proposals also include the removal of primary (mainly internal) walls and outbuildings, although the boundary wall element of the latter is to be retained. Their loss is mitigated by the benefits of the scheme which will result in the reversal of damaging late 20th century changes including the removal of the veranda and construction of the southeast extension.

Brunel Court

It is proposed to remove the late 20th-century extension and alter the roof through the removal of the existing roof lanterns and the introduction of several dormers and skylights. The existing infilling within the large primary openings is to be replaced with glazed screens and timber doors that better reflect the form of the former openings.

Seven units are to be created within the court which are all two stories in height. All the late 20th-century partitions and stairs are to be removed and partitions and stairs added to create the new residential layout. The proposals do not impact any of the primary internal partitions, but it will be necessary to create new openings within the external primary walls particularly to the northwest and southwest. The fenestration of these new openings has been designed to match those existing in the other elevations.

The scheme for Brunel Court will remove the various late 20th-century additions and introduce elements more sympathetic to the character of the building. The proposals do include the introduction of new roof lights and openings to the primary external walls, but this is necessary to provide natural light into the units. Overall, the proposals will result in a negligible positive change to the significance of Brunel Court.

In terms of below ground archaeology, the Heritage Assessment is largely silent on potential below ground archaeological remains. A condition has been suggested to require the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. This needs to be a pre-commencement condition to ensure that the impacts of construction on potential below ground heritage assets are mitigated from the outset of development.

The above conclusion has consideration of Paragraph 205 of the NPPF which identifies 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.

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Historic Park and Garden and Watcombe Park Conservation Area

The application area forms a small part of the gardens and parkland of Watcombe Park, and is located within two larger designated areas, the Watcombe Park and Brunel Manor Registered Park and Garden and the Watcombe Park Conservation Area. These designated areas are heritage assets of high significance. The application area includes built and landscape elements that contribute highly to their significance. The scheme includes elements whose impact is either neutral or positive to the character of the gardens and parkland around Brunel Manor. In conclusion, when considered as a whole, the scheme results in a minor positive change to the

significance of these grounds and the designated areas within which the application area is located.

Historic England and Victorian Society comments

It is important to return to the comments from Historic England who sought amendments to the Woodland Row and Water Row elements of the proposals that address the negative impact that their proposed design, form and massing would have on the Conservation Area, registered landscape and the setting of Brunel Manor.

Victorian Society also maintained the view that the design of both the Woodland Row and Water Row are incongruous with the character of Brunel House, and do not adequately reference the aesthetic and architectural form of Brunel Manor. The rectangular, modular form and flat roofs of the Woodland Row proposals are unsympathetic to the form and roofline of Brunel Manor. The use of pink limestone in the Woodland Row proposals.

As discussed previously, the Design Review Panel response clearly guided the design evolution of the proposals. The option for a traditional design response were discounted at an early stage, with the proposed modern architectural form is seen as a more honest and appropriate response. Although it does not directly replicate that of Brunel Manor, the submitted information clearly shows that it draws inspiration from the architecture within a new and modern composition. The design is not intended to compete with it but draw on various core elements. These reference the building and landscape whilst appreciating that they are from a different time with new building technologies and resources.

The Victorian Society also refer to the impact of cars within the site. There is already an existing vehicle route running from Teignmouth Road west to east. Water Row would include parking and a vehicle route through the woodland to the new dwellings. This would be separated from Brunel Manor by topography and dense vegetation. The new circular spaces at the entrance serving the site would also be enclosed within woodland. The route to the north of Woodland Row would be constructed of permeable blocks which would assimilate within the landscape effectively. Although there would be an increase in vehicle movements, this is considered modest given the quantum of development and screening.

Statutory requirements

These conclusions have taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses and in relation to any buildings or other land in a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The proposal is considered to be in accordance with Policies DE1, and SS10 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

5. Landscape Character and Trees

Relevant policies of the Torbay Local Plan are C4, C5 and SS9. Policy SS9 seeks to protect and provide high quality green space at a local level and mitigate for any loss of habitat and maintain existing and contribute to new tree planting and woodland creation.

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

The area surrounding the west, south and east of Brunel Manor is designated as Local Green Space in Torquay Neighbourhood Plan. It forms part of the St Marychurch & District Community Partnership area, with an overarching objective to enhance the unique nature and history of each area by protection and preservation of valuable architecture and existing greenspaces.

Under the heading 'Environment' there is a community aspiration to protect all green open spaces from greenfield development, and under 'Housing,' to see that any redevelopment is carried out in an appropriate style and scale, without adverse impact on neighbours in the immediate environment or the area as a whole.

The plan identifies the site as 'Brunel Manor Gardens & Grounds' Local Green Space (LGS) (ref. TLGSM2). Policy TE2 of Torquay Neighbourhood Plan rules out development in these spaces, other than in very special circumstances. These special circumstances include: *'...minor improvements to community access, or facilities that support their use for public recreation... or development allowing reasonable small extensions in a style that reflects the setting and the local area which would be consistent with the LGS designation.'*

In defining its special significance to the local community, the evidence base ('Basic Conditions Statement') notes that: *Today Brunel Manor is a Christian retreat, but its grounds are still open to visitors and local residents. The gardens are maintained professionally, and this magnificent environment adds greatly to the purpose of the retreat. The immediate mature woodland area includes a children's play area with tree swings and climbing equipment. The Christian retreat closed in 2021 and its grounds are not open to the public.*

In Paragraph 105 of the NPPF it states that: *'Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.'*

Paragraph 106 (b) of the NPPF states that Local Green Space designation should only be used when the green space is *'demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife.'*

Policy TE4 of Torquay Neighbourhood Plan states that: *Greenfield development should, where deliverable and viable, support the provision and/or enhancement of green infrastructure through the provision of green corridors and/or links to existing green infrastructure, to facilitate the natural movement of wildlife.*

The proposals would marginally decrease the extent of the green open space where the easternmost new houses extend beyond the footprint of the extension to Brunel Manor, which would be balanced by the management of the green space and the removal of the swimming pool. To conclude, Torquay Neighbourhood Forum have assessed that the proposal would have no adverse impact on the LGS.

As discussed previously in this report, the landscaped grounds would form new highly, managed public open space. Access would be from the north from Seymour Drive and to the south via Brunel Avenue. This is seen as a significant benefit of the scheme in terms of quality landscape, combined with restoration and a new management regime which could be accessed by the public.

Policy C5 of the Local Plan relates to Urban Landscape Protection Areas (ULPAs) and lists a series of ULPAs, including Watcombe Park and Watcombe Heights. The site forms the northern extents of this UPLA. The policy states that Development within ULPAs will only be permitted where:

- 1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and*
- 2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.*

Whilst Policy C5 does not preclude all development in these locations, it is necessary to demonstrate that the quality of these areas is retained if it were to take place. The ULPA would remain open with a significant level of landscape restoration. Vistas and routes are proposed to be opened and improved. The siting, scale and architectural design of the new build is landscape led and will complement both the existing Manor and the surrounding area. The demolition of the 20th century additions and building makes a significant positive impact on the ULPA.

The application is supported several tree and landscape reports:

- Survey and constraints.
- Tree removal plans.
- Arboriculture impact report.
- Tree impact assessment.

- Restoration Strategy.

There are a number of significant mature trees within and around the site. There are several Tree Preservation Order(s) across the site including:

- TPO 2007.001 Brunel Manor Stables.
- TPO 2007.002 South of Brunel Court.
- TPO 2007.003 Brunel Manor.
- The site is within the Watcombe Park Conservation Area.
- The site is listed on the Historic England Register of Parks and Gardens of Special Historic Interest.

Mature trees, predominantly as large areas of planted woodland, are a dominant feature of the area, including the site, the adjacent Brunel Woods to the south and west, and around the periphery of housing to the west and east. Designed 'woodland gardens', featuring varied and often exotic trees, form the eastern and western valley sides extending south from the manor. These are extant features of the mid-19th century designed estate and form the skyline and frame views from open areas within the site. Away from the designed slopes, woodland is more open and subject to natural regeneration, with a greater presence of native species.

The formal gardens immediately to the south and west of the manor are similarly part of the originally designed gardens, with ornamental planting and specimen trees and shrubs.

The submitted tree survey recorded 23 individual trees, 9 tree groups and 8 woodland groups (including a subgroup, W1a). Of the individual trees, 4 were identified as high quality (category A), 12 as moderate quality (category B), 4 of low quality (category C) and five as unsuitable for retention (category U). Of the tree groups, none were identified as category A, 2 as category B and 1 as category U, 3 as a mixture of B and C, 2 as a mixture of C and U and 1 as a mixture of B and U. Of the woodland groups and subgroup, none were identified as A, C or U, 4 were identified as B and 5 were identified as a mixture of B and C.

In order to accommodate the development and for safety reasons, it is estimated that there would be the loss of some trees close to the building footprint, although the development has been designed to minimise tree loss. Those trees are all category U, and consist of T2 horse chestnut, T8 Corsican pine, T16 Cypress, T20 and T21 Western red cedar, and Ash from group 3 and Turkey oak from group 7.

There would be 19 individual trees removed in total and 9 as part of tree groups. The tree removal would be the first stage of renewal and diversification of the woodland on the site, arresting the long-term decline by producing and implementing a woodland management plan, conditioned as part of this application. It would be part of an overall management plan for the entire site, including specific actions during set time periods as well as monitoring and review of progress and effectiveness of the plan. The plan would set out the baseline at the time of its implementation, its aims and objectives, method statements to implement the work and a programme which would reflect priorities and phrases of work, such as new planting, tree remediation works and maintenance operations with an agreed programme, subject to seasonal requirements.

One of the critical comments from the Council's Arboriculturist was the loss of the tree indicated as G8 – 3 Holm Oaks which occupy the space to the south of the access road opposite the junction serving Brunel Court. The loss of this tree group would lead to the loss of mature trees on the site, however suggested conditions around survey, retention and protection has been agreed by the Arboriculturist to resolve the issue.

New planting proposed within the site would be of appropriate species, in character with the intentions of the C19th designed landscape whilst providing biodiversity benefits through management and planting. Consequently, any tree loss would be more than compensated for by the implementation of the management plan.

The submitted LVA confirms that the proposal would provide *"...a unique opportunity to reverse the decline of the Brunel landscape. Although some restoration was undertaken by the previous owners, the current proposals offer the potential for enhancement and further strengthening of the structure and fabric of the designed landscape..."*

The LVA concludes that:

"There would be no clear views of the development from outside of the site owing to the careful siting of the new properties and the strong framework of trees, reinforced by topography.

As well as the implementation of a management plan, a comprehensive scheme of detailed landscape design based on the unique setting and character of the site, would be prepared for the setting of the new houses and Brunel Manor. It would be underpinned by a long-term Landscape Management Plan, which would ensure the retention and enhancement of the landscape of the site."

The submitted Restoration Strategy includes a range of objectives and an outline management plan. Accordance with the Strategy has been suggested in the conditions below. The main aim of the objectives are:

- securing the long-term future of the historic landscape,
- integrating new development into its landscape setting, retention and management of the woodland,
- ensure the safety and security of those using the site, including provision and maintenance of trees and access,
- reinstate and enhance heritage landscape features, replicate the historic landscape character, and enhance the setting of the listed buildings,
- provide opportunities for informal recreation.

The submitted Arboricultural Impact Assessment provides an assessment of existing conditions on site and is accompanied by plans relating to tree impact, removal and protection. The AIA has been informed by historic records and on site assessment of existing conditions which have informed the final detailed proposal. The AIA concludes that: *"Impacts on trees have been appropriately avoided and minimised, such that the proposal offers a long-term gain in sustainable tree cover, and therefore the overall impact on trees is positive."*

The Council's Arboriculturist has no objection in principle, subject to the use of pre-commencement conditions to technical design for the access to the three parking spaces to Water Row are submitted and agreed in writing. Further conditions are suggested to require details of new tree planting, tree specification, Tree Protection Plan and LEMP. The loss of trees is only considered acceptable subject to replacement planting (in type, extent and scale) adequate to off-set harm and to achieve long term landscape improvements.

Therefore, with the addition of the suggested conditions, the proposal is considered to accord with Policy C4, C5 and SS9 of the Local Plan and Policies TE2 and TE4 of the Torquay Neighbourhood Plan.

6. Impact on Residential Amenity

Paragraph 130 of the NPPF requires developments with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity for neighbouring occupiers. Policy THW4 of the Torquay Neighbourhood Plan seeks an amenity space provision for residential units of 10sqm per flat provided as private space or communal space.

Neighbouring Occupiers

There are residential properties to the north and west, and within the site area. Those to the west are on Kingsgate Close which runs parallel with the site boundary. These properties are separated by a dense and mature landscape edge which would screen the area from the development site.

To the north, Seymour Drive runs parallel to the boundary. There are five properties to the south side of the highway and a row of detached properties to the north side. The footpath that connects with this residential area runs past 43 Seymour Drive. This property is set low down into the landscape and would be the only property affected by the development within this part of the site. The existing part of the site is the former tennis court which would be replaced by three new dwellings which have been designed to minimise the impact on the property.

A new vehicular access will run east to west connecting the three new houses to the access road and further parking spaces within the site. This will be screened by dense vegetation and the boundary treatment separating the site from the footpath. It is therefore not considered to impact amenity of the neighbouring residents.

The Brunel Court residential conversion would not impact on the Seymour Drive residents at the east end. 10 new parking spaces are proposed however, these again will be separated by the existing boundary treatment and mature vegetation. Vehicles already enter this area, and the impact is considered minimal.

There is an existing property known as Carousel embedded within the wider site to the north east. The impact on amenity from the proposed development is considered to be minimum. That said, it is recognised these proposals and associated works are a

relatively large scale and conditions have been suggested to secure a CMP in order to control the timing of deliveries and impacts of construction activities.

There are a range of properties opposite the entrance of the site on Teignmouth Road. In terms of residential amenity there are not considered to be any impacts other than potential during the construction period. This matter is covered above.

The development would include demolition, ground works, vegetation and new build. It would be appropriate to manage this change through the following suggested conditions:

- Construction Method Statement.
- Construction and Environmental Management Plan (CEMP).

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

Future Occupiers

A Health Impact Assessment has been submitted in support of the application. Policy SC1 of the Local Plan includes a requirement for a screening for Health Impact Assessment (HIA) to be undertaken for development proposals of 30 or more dwellings or where over 1000 m² of floor space is created. The proposed development falls within this requirement. It is evident that there are significant areas of open, green space on the site, with links to the west and south to other local areas and facilities. The proposal secures the long term future for the designated heritage asset and surrounding buildings. As discussed in Section 2 of this report, the proposal will create local, specialised construction jobs, increase local spend in the area.

In terms of assessing the quality of the future residential environment it is important to consider 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 good level of amenity for future residents.

The development proposes a variety of dwelling types. All are well spaced and provide good natural lighting to key habitable rooms and good outlooks. Internal privacy is offered with adequate back-to-back distances between dwellings or outlooks to landscaped borders. There will be some natural overlooking of gardens, but this is commonplace within residential environments and there are no unacceptable, such as overly dominant, relationships. In terms of the internal living spaces all dwellings meet the national internal living spaces standards that are within the Development Plan (Policy DE3) and support the concept of producing, in the round, a satisfactory level of amenity for future occupiers. Each dwelling would have adequate amenity space that exceeds the 55sqm expected within the Development Plan. Besides which there would be access to the fully restored gardens surrounding the site.

In terms of ancillary elements of parking, cycle parking and waste storage the following is considered. The applicant has provided a range of updated information regarding these elements:

- an updated site plan showing a total of 56 cycle parking spaces for the proposed development, the proposed cycle parking appears to be located in secure bike stores. This quantum is in line with the requirements set out in Appendix F of the Torbay Local Plan.
- the proposal includes a total of 68 car parking spaces, 22 of which are for visitors. 35 of these spaces will include electric vehicle charging points. This is considered acceptable and supported by Appendix F of Torbay Local Plan.
- A waste management strategy has been submitted and is considered acceptable.

It is proposed that refuse collections will be undertaken by a private contractor. This is considered acceptable. However, should Torbay Council in their role as Waste Collection Authority (WCA) be requested to collect recycling and waste from the site in the future, there will be legal obligation for them to do so. Therefore, a condition has been suggested to require the submission of a full Waste Management Strategy.

The applicant should note that Torbay Council refuse vehicles will not service unadopted highway networks and thus will be required to confirm the extent of the site that will be offered for adoption as Highway Maintainable at Public Expense (HMPE). Collections taken from the A379, understood to be the nearest extent of existing public highway, would not be acceptable and therefore the internal site layout must be designed to adoptable standards. A condition has been suggested to ensure the access road is at an appropriate standard.

The applicant has submitted a swept path analysis (ref. SP01 and SP02) to illustrate a refuse vehicle and a fire appliance accessing and egressing the site. This indicates that a refuse vehicle will be able to access the proposed communal bin store and to turn and egress in a forward gear.

It is noted that access for refuse vehicles should adhere to regulations contained within Schedule 1, Part H of the Building Regulations (2015). Residents should not be expected to carry waste more than 30m to the collection point and refuse collection vehicles should be able to get within 25m of any storage points. Whilst a management strategy is proposed to transfer waste from smaller bins to the communal bin store on collection days, the plans have been amended to show that the proposed bin store location will no longer exceed maximum carry distance prescribed by the Building Regulations should the WCA be requested to collect recycling and waste during the operational life of the development.

The Waste Team manager also considered that although the width of the current road is adequate, in some areas the trees and vegetation are overgrown and overhanging

the route. The application includes extension landscape and tree restoration works which will include the management of vegetation adjacent the route.

All these matters combined present good quality living spaces throughout the development. 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 of the Local Plan, Policy THW4 of the Neighbourhood Plan., and advice contained within the NPPF regarding creating good quality living environments.

7. Access, Impact on Highway Safety and Parking

Paragraph 114 of the NPPF guides that in assessing 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; 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 115 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TA1 of the Local Plan seeks sustainable transportation with priority for travel by foot, cycle, public transport, and other sustainable means (e.g. car sharing and low emission vehicles). It aims to improve road safety and minimise conflict between road users. This seeks connectivity for footpaths, cycle routes and bus services.

Policy TA2 of the Local Plan states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces, including garages. Policy TH9 of the Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking resulting from the development.

The site is located on the north-eastern edge of Torquay and existing vehicular, pedestrian and cycle access to the site is currently achieved through an existing priority-controlled junction with Teignmouth Road.

The closest northbound bus stop to the site is located on Teignmouth Road, directly adjacent to the access to the site. The southbound bus stop is located approximately 100m to the north of the site access. These stops are serviced by the hourly 22 service

providing connections to Torquay, South Devon College and Torquay Coach Station. A further bus stop on Padacre Road approximately 700m west of the site serves route 31 providing connections to Torquay every 20 minutes. The existing northbound bus stop on Teignmouth Road is currently provided with a flagpole and a small area of hardstanding. Its current arrangement is considered inadequate and does not support access for disabled users.

There is no existing off highway bus stop on Teignmouth Road. Buses currently stop on the highway or pull in to the entrance to Brunel Manor. The applicant investigated the provision of a full or half width size layby following concerns around the road safety concerns. The applicant or Local Highway Authority are not in control of the land in this area is to remain as existing which is considered to be acceptable to the LHA. That said, the applicant proposes provision of a bus shelter which is controlled by a suggested condition.

The retention of the existing vehicular access to the site from Teignmouth Road is considered acceptable.

The applicant has undertaken a comparative trip generation, utilising the TRICS database, for the extant and proposed uses of the site. The TRICS selection parameters are considered acceptable. Table 5.3. of the submitted Transport Statement identifies a two-way reduction in vehicular trips of 11 and 12 in the AM and PM peaks respectively when comparing the operation of the extant and proposed uses of the site.

The Local Highway Authority also previously raised concerns about the connection between the newly proposed uncontrolled pedestrian crossing and the existing southbound bus stop on A379 Teignmouth Road. The applicant has now updated Drawing No. 2106-015-SK04 Rev A which is included in Appendix A of the Transport Technical Note to show an upgraded 2m wide footway in this location, connecting the crossing to the southbound bus stop. This is considered acceptable and is controlled by a suggested condition. This does to some extent respond to the concern from Torquay Neighbourhood Forum (Policy TR2) who commented on the current access arrangements.

The Local Highway Authority consider it essential to promote the delivery of a suitable and safe pedestrian/cycle route, from the site to local facilities, without having to use the A379 due to the absence of pedestrian provisions. It is noted that a walking/cycling connection is proposed via the existing path to the north of the site which essentially connects Teignmouth Road to Seymour Drive. The Highway Authority seek to ensure that this existing path is maintained for the lifetime of the development. A 'Movement Strategy' has been submitted showing improved connectivity to Seymour Drive and to the south along the western boundary of the site. This would provide access to existing pathways to Brunel Avenue. A condition is suggested to ensure this route within the site is available for the lifetime of the development. This does to some extent respond

to the concern from Torquay Neighbourhood Forum (Policy TTR2) who commented on the distance to work, education, recreation and shopping.

Appendix F of the Local Plan requires two car parking spaces (of which one should provide electric vehicle charging infrastructure) and two cycle parking spaces should be provided per dwelling. Appendix F of the Local Plan requires one car parking space (of which 20% should provide electric vehicle charging infrastructure) and one cycle parking space should be provided per flat.

In terms of cycle parking and car parking:

- an updated site plan showing a total of 56 cycle parking spaces for the proposed development, the proposed cycle parking appears to be located in secure bike stores. This quantum is in line with the requirements set out in Appendix F of the Torbay Local Plan.
- the proposal includes a total of 68 car parking spaces, 22 of which are for visitors. 35 of these spaces will include electric vehicle charging points. This is considered acceptable and supported by Appendix F of the Local Plan.

The following conditions are suggested:

- Details of parking layouts and construction
- Management and maintenance of roads
- Parking management plan
- Pedestrian link
- Hard landscaping

Conclusion

The pedestrian movement, legibility, vehicle access and car parking proposals are acceptable. Improvements to non-car access to the site have evolved over the course of the application. The proposed development, subject to the recommended conditions and Section 106 obligations is considered acceptable with regards to Policies TA1, TA2 and TA3 of the Local Plan and Policy TTR2 and TR2 of the Neighbourhood Plan.

8. Ecology and Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Neighbourhood Plan cites that where there may be an impact development should be accompanied by 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.

In summary, the site:

- lies approx. 820m west of Lyme Bay and Torbay Special Area of Conservation (SAC).
- borders Brunel Woods Other Sites of Wildlife Interest (OSWI) to the south and west of the site.

The Devon County Council Ecologist has no objection and has commented as follows:

The loft and roof space within Brunel Manor had evidence of bats. The majority are to be retained and as the bats would be undisturbed the bats would be left in situ. A section of loft space to form apartment 15 contains a brown long eared bat roost. This is a common species and are considered of low conservation value and therefore, the proposed works will result in an adverse impact at no more than the local level. However, as these works require a licence, would be an offence under UK legislation, the site will require consultation with Natural England concerning a European Protected Species (EPS) Mitigation Licence (Bats).

The Ecologist has also stated that as the Biodiversity Net Gain metric has been completed correctly it appears that a 100% net gain can be achieved within red and blue line boundary. This matter will also be dealt with through the Section 106.

To ensure acceptability in terms of ecology and biodiversity a number of conditions have been suggested below:

- LEMP.
- No works during bird nesting season.
- Biodiversity enhancement.
- Landscaping scheme.
- Lighting Strategy.

Subject to the addition of suggested conditions and informatives, the proposal is therefore deemed to comply with Policies NC1 and C4 of the Local Plan.

9. Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and is within Flood Zone 1.

In terms of drainage, the scheme evolved during the application process. The application has been supported by a variety of updated and additional information:

- An updated Flood Risk Assessment.
- Surface Water Drainage survey drawings.
- Attenuation Tank details.
- Surface Water Network Drawings.

The original FRA proposed the use soakaways and permeable paving. The permeability tests were concluded to be insufficient. Given the topography of the site it was clear that the additional information above was required. The infiltration testing that was been carried out was insufficient to identify whether the use of soakaways would be viable on the site. The applicant proposed to respond by discharging water

to the existing on site combined sewer system, in two networks and by using attenuation tanks.

The Council's Drainage Team has been consulted and has no objections subject to the development being implemented in accordance with the submitted scheme. It is recommended that compliance with the submitted FRA be secured by condition.

The proposal is therefore considered to accord with Policy ER1 of the Local Plan and the guidance contained in the NPPF.

10. Recycling, Waste, Sustainability, Low Carbon

The NPPF guides that the planning system should support the transition to a low carbon future in a changing climate, including helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and support renewable and low carbon energy and associated infrastructure (Paragraph 157).

Policy SS14 of the Torbay Local Plan supports national guidance and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 of the Local Plan seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

Section 13 of the Design and Access Statement submitted in support of the proposal includes sections on Designing for the climate crisis, sustainability and wellbeing principles, construction and cladding methods. An Energy and Sustainability Report has also been produced.

Primarily there are benefits to the retention of an historic range of buildings and their renovation. The removal of poor quality buildings and structures are fully justified in heritage terms, but also when considering the structure issues in some cases. There is also a large body of evidence around the benefits of retained and restored timber windows if functioning correctly.

The scheme improves the pedestrian legibility and movement in and around the site. Three ranges of cycle stores are proposed as well as EV car and bike charging points.

The proposals aim for Net Zero Carbon, through highly insulated and efficient new buildings. The proposals include high quality materials to ensure longevity of the scheme. Adaptability and flexibility are a key part of the proposals by the allowance for living spaces to be reduced to a single, accessible level with small adaptations.

Provision for the use of the existing lift would further increase this flexibility, allowing use of the lower ground floor gardens or upper floors with minor interventions. The proposals also allow for adaptability of the building fabric to incorporate modern energy

generation solutions of the future, such as more efficient air source heat pumps or solar grids on the roofscapes.

Sensitive restoration of the Manor House means it is not possible to insulate to the same levels on a historic property, but the energy generation proposals can provide highly efficient living spaces.

Key interventions also include a combination of (where appropriate)::

- Solar PV panels
- Rainwater harvesting
- Air source and ground source heat pumps
- Some re-use of timber during construction.
- The use of natural stone clay blocks, glass reinforced concrete and cross laminated timber.
- Advanced glazing systems.
- Impermeable surfaces are to be replaced with more natural materials.
- Green roofs also contribute to reducing run-off and easing pressure on drainage systems.

Given the scale of development a condition requiring the submission of a Waste Management Plan condition is suggested. This would include measures which would prevent and minimise, re-use and recycle waste generated by the development. This will ensure a sustainable approach to construction of the development and reducing the amount of waste generated by the development of the site further to Policy W3 of the Local Plan. A further Energy renewables condition is also suggested to ensure details are submitted and approved in writing in accordance with Policies ES1, ES2 and DE1 of the Local Plan.

Subject to suggested conditions, the proposal is therefore deemed to comply with Policies SS14 and ES1 of the Local Plan and policies in the NPPF.

11. Designing Out Crime

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict.

Policy DE1.4 of the Torbay Local Plan seeks development proposals to be designed to reduce crime and the fear of crime by the promotion of safety and security in the design of buildings and surrounding space, whilst ensuring that amenities are not unduly affected. Design should also minimise opportunities for community conflict, antisocial behaviour and maximise safety for all.

Comments from Devon and Cornwall Police included the recommendation for the use of door entry security and lobby where necessary. A condition has been suggested to manage the security given any system would need to be fixed to the fabric of the listed building. This requires careful examination and execution to minimise its impact. The

formation of lobbies could have an impact on room layout and historic proportions and has been omitted from the scheme and conditions.

Subject to a suggested condition, the proposal is therefore deemed to comply with Policies SS11 and DE1 of the Local Plan and policies in the NPPF.

Sustainability

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

The Economic Role

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

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

The building has been vacant for a number of years and this development would it back to full residential use.

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

The Social Role

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

There would be a detrimental impact on local services i.e. schools, Doctors surgeries etc, however this can be mitigated via Section 106 contributions.

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

The Environmental Role

The environmental benefits of this development are considered positive. It provides a long-term use for buildings that has embodied energy within their fabric.

With respect to the environmental role of sustainable development, the elements that are considered especially relevant to the proposed development are impacts on

heritage assets, trees, ecology and biodiversity, drainage and carbon reduction. These matters have been considered in detail above.

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.

Statement on Human Rights and Equalities Issues

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

Equalities Act

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

Local Finance Considerations

S106:

| Floorspace in sq.m | Below 60sq.m | 60-79 sq.m | 80-108 sq.m | 109+ sq.m | Total |
|---------------------------|---------------------|-------------------|--------------------|------------------|--------------|
| Number of units on site | 1 | 6 | 7 | 21 | 35 Units |
| Sustainable transport | £860 | £1,075 | £1,290 | £1,398 | £45,698 |
| Education (secondary) | £0 | £2,893 | £3,623 | £4,327 | £133,586 |
| Education (post16) | £0 | £1,199 | £1,434 | £1,694 | £52,806 |
| Education (SEN) | £0 | £3,145 | £3,977 | £4,717 | £145,766 |
| Lifelong learning | £157 | £214 | £292 | £337 | £9,402 |

| | | | | | |
|-------------------|------|------|------|------|-----------------|
| Waste management | £162 | £162 | £162 | £162 | £5,670 |
| Public open space | | | | | £41,715 |
| | | | | | £392,928 |
| Monitoring @5% | | | | | £19,646 |
| Total | | | | | £412,574 |

Other site related costs include Legal fees and Biodiversity Net gain within the blue boundary of the site.

The NHS has sought contributions for healthcare. The Planning Contributions and Affordable Housing SPD (December 2022) support these where development is not on an allocated Local Plan site. This applies to the current application and the NHS Primary Care contribution is calculated as £21,734.

CIL:

Brunel Manor is in CIL Charging Zone 3 and “Residential schemes of 15 or more dwellings within Charging Zone 3 will not be charged CIL. Although the proposal is more than 15 dwellings, there is no increase in floorspace and it is currently vacant. Therefore, obligations for education, lifelong learning, open space, sustainable transport and waste management fall to be delivered through S106 Obligations as above.

Affordable housing:

Vacant Building Credit was debated during the application process with the applicant’s solicitor, Clarke Wilmott submitting a legal opinion stating that VBC applies. For clarity, the Woodlands House of Prayer Church vacated the building in May 2021. They were a charity and operated on a not for profit basis, using voluntary staff. The property was subject to marketing and there is no evidence to suggest that the property was vacated solely for the purposes of redevelopment.

VBC may reduce the delivery of affordable housing, which is the type of housing most needed in Torbay. But this is a consequence of the widely supported policy of prioritising brownfield development and the reuse of buildings. It will assist the general supply of housing.

The application entails significant amounts of building restoration and woodland management, as well as the improvement of walking and cycling routes in the area. These are likely to be the most important planning considerations in view of the numerous designations relating to Brunel Manor and its grounds. Therefore, there is a policy case to apply VBC and not seek affordable housing on the site.

EIA/HRA

EIA

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development. The development does not meet the thresholds for screening and is not in a sensitive area.

HRA

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

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC and a formal HRA screening is not necessary in this instance as the proposed development is unlikely to have a significant effect on the South Hams SAC.

Planning Balance

This report considers the key planning issues, the merits of the proposal and development plan policies.

When taking account of the Government's objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with the acknowledged important contribution that sites can make to meeting the housing requirement of an area and the Council's housing land supply situation, the cumulative public benefits of the proposed scheme attract significant weight. The environmental weight through the heritage benefits, provision of public open space and landscape restoration are equally of significant public benefit.

Conclusions and Reasons for Decision

There are demonstrable public benefits that weigh in favour of the scheme, notably housing provision, bringing a vacant listed building back into use, landscape restoration and a range of quality soft landscaping and public access to local green infrastructure.

The residential environment for future occupiers is acceptable and there are no unacceptable impacts upon the amenity of adjacent occupiers.

Ecology matters are resolved in terms of protected species, habitats and biodiversity net gain aspirations.

Flood risk will not be increased, subject to the accordance to the submitted detailed design information for the surface water management system.

The internal road and footpath network, and its connectivity, are considered acceptable.

The rigorous pre-application process and early engagement has ensured that layout, architectural design and appearance of the scheme are considered acceptable. A number of representations have been received as part of the pre-application

engagement and application consultation regarding these issues. However, the architectural treatment and scale of development are considered appropriate.

When considered as a whole the proposed development is deemed to represent sustainable development and is acceptable, having regard to the Local Plan, the 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, or where for housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, 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, when assessed against the policies in the NPPF when taken as a whole.

There are no impacts on protected areas or assets of particular importance to provide a clear reasoning for refusal when considering the scheme in the round and the public benefits noted.

As such is it recommended that planning permission be approved.

Officer Recommendation

Approval subject to:

1. Completion of a Section 106 agreement.
2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

Pre-commencement conditions

1. Phasing Plan

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

- (i) site excavations;
- (ii) building construction;
- (iii) provision of car parking for each phase;
- (iv) vegetation and tree removal;

- (v) provision of on-site planting for each phase and;
- (vi) road and pathway construction within the site.

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

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

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

2. Construction Method Statement

No development (including demolition, ground works and vegetation clearance) shall take place of any phase of the development until a Construction Method Statement (CMS) for that phase 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 and access routes for vehicles and plant within the site
- (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.
- (ix) 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.

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 with regards to construction traffic 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.

3. Construction and Environmental Management Plan (CEMP)

No development (including demolition, ground works and vegetation clearance) shall take place for any phase of the development until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. Each 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) Identification of biodiversity protection zones
- (iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce environmental impacts during construction
- (iv) 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.
- (v) The times during construction when specialist ecologist need to be present on site to monitor works to ensure compliance with the CEMP and the actions that will be undertaken.
- (vi) Responsible persons and lines of communication
- (vii) The role and responsibilities on site of an ecological clerk of works or similarly competent person
- (viii) Details of how lighting will be controlled during the construction phase of development.

Each approved CEMP shall be adhered to and implemented throughout the construction period of the phase of development to which it relates, strictly in accordance with the approved details.

Reason: To ensure that all retained habitats, trees, hedges and new planting on the site are adequately protected before the construction of the development commences and while it is in progress, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012-2030 and the National Planning 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.

4. Flood Risk Assessment (FRA)

No phase of the development shall commence until the detailed surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage design shall be in accordance with the principles established in the approved FRA (J-2918 3003D) or other such details to be agreed.

The drainage scheme shall:

- (i) give priority to the use of sustainable urban drainage systems and include details of how they have been designed to cater for the 1 in 100 critical rainfall event plus an allowance for climate change
- (ii) Provide evidence that trial holes and infiltration test have been carried out

- (iii) Demonstrate that there will be no increased risk of flooding to surrounding buildings roads and land.

No phase of the development shall be occupied or brought into use until the approved surface water drainage scheme for that phase has been completed as approved and shall be continually maintained as such thereafter.

Reason: In the interests of securing a satisfactory drainage scheme prior to commencement of the development that adapts to climate change and manages flood risks on the site and in the vicinity further to Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the National Planning Policy Framework.

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.

5. Archaeological WSI (Written Scheme of Investigation)

No development or demolition shall take place on each phase until the developer has secured the implementation of a programme of archaeological work relevant to that phase in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012-2030 and paragraph 205 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

This needs to be a pre-commencement condition to ensure that the impacts of construction on heritage assets are mitigated from the outset of development.

6. Protection of fabric of Brunel Manor (during construction)

Prior to the commencement of the remodelling and extensions to Brunel Manor details of the means of keeping the building secure and protecting the building fabric (from adverse weather or unauthorised entry) during construction shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to commencement of the works to the building or part thereof and shall be maintained in that condition thereafter.

Reason: To ensure a sympathetic form of development and to preserve the character of the non-designated heritage assets further to Policies DE1 and SS10 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

This needs to be a pre-commencement condition to ensure that the impacts of construction on heritage assets are mitigated from the outset of development.

7. Watcombe Park and Brunel Manor Historic Garden Features

A Method Statement for the protection and preservation of the garden features within the Watcombe Park and Brunel Manor Historic Garden shall be submitted to and approved in writing prior to the commencement of any works above, below or adjacent to the respective feature (within 5m distance measured horizontally). The garden features include:

- a) 2 flights of steps with balustrades to south of Brunel Manor (Grade II Listed (NHLE entry 1206849),
- b) Balustrades to south terrace of Brunel Manor (Grade II Listed (NHLE entry 1280009),
- c) Gate piers and walls at entrance to Brunel Manor (Grade II Listed (NHLE entry 1206850).

The development shall be implemented in accordance with the approved Method Statement.

Reason: To ensure the protection and maintenance of the significance of non-designated heritage assets that may be affected by the development in accordance with Policy SS10 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 heritage assets are mitigated from the outset of development.

8. Finished Floor Levels, datum levels

No development shall take place on each phase until details of the existing and proposed datum levels, finished ground levels within the site, finished floor levels including buildings and structures for that phase, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved level details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual and residential amenity, in accordance with Policies DE1, C5 and DE3 of the Torbay Local Plan 2012-2030.

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

9. Road Construction

No phase of the development (including ground works and vegetation clearance) shall take place until details of the position and construction of the proposed vehicle routes and footpaths, within the site have been submitted to and agreed in writing by the LPA.

The development shall be implemented in accordance with the approved details and maintained in that condition thereafter.

Reason: In the interests of a safe and adequate access to the site and within the site 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 impacts of construction on existing users of the site and on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

10. The Waste Management Plan

No development (including ground works) or vegetation clearance works shall take place until a Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Waste Management Plan shall include measures to:

- (i) Prevent and minimise, re-use and recycle waste generated by the development including building materials, timber and ground materials
- (ii) Minimise the use of raw materials.
- (iii) Minimise the pollution potential of unavoidable waste.
- (v) Make provision for the storage and collection of waste.
- (vi) Dispose of unavoidable waste in an environmentally acceptable manner.

Reason: In the interests of ensuring a sustainable approach to construction of the development and reducing the amount of waste generated by the development of the site further to Policy W3 of the Torbay Local Plan 2012-2030.

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

11. Tree Protection Plan

No development (including ground works) or vegetation clearance works shall commence for any phase of the development until a Tree Protection Plan and Arboricultural Method Statement for the relevant areas of the site for that phase have been submitted to and agreed in writing by the Local Planning Authority for all land impacted by that phase. The Tree Protection Plan shall show the position of protective fencing, root protection areas for retained trees and the type of fencing.

- a. The area beneath the tree/hedge and between the trunk of the tree/hedge and the fence will be kept clear and undisturbed at all times. No materials shall be stored within the fenced area; the levels of the land within the fenced area shall not be altered, and no seepage of oils, fuels or chemicals (including cement and cement washings) which may be harmful to trees and hedges shall be allowed onto the fenced area.
- b. No trenches for service runs, or any other excavations shall take place within the fenced area.
- c. No soil or other surface material shall be removed from the fenced area except by written permission of the Local Authority. Where such a permission is granted, materials shall be removed manually, without powered equipment, taking adequate precautions to prevent damage to tree or hedge roots.

- d. Works to trees and hedges to be retained. Any work carried out to trees and hedges to be retained on site or close to the boundary of the site shall be with the written approval of the Local Planning Authority. Such work will be to British BS 3998: 1989 as a minimum standard.

The development shall be implemented in accordance with the approved details for the duration of the construction of that phase.

Reason: To ensure that all existing trees and hedges on the adjoining sites will be adequately protected prior to commencement and during construction of the development in accordance with Policy 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 protected trees and hedges are mitigated from the outset of development.

12. Technical design and arboricultural method statement

Prior to the commencement of the development and subject to the approval of the LPA, a technical design and arboricultural method statement shall be prepared and submitted for the construction and use of a suspended roadway or (subject to soil analysis and structural engineering details) a load spreading, porous surfacing treatment e.g. cellular confinement system, for the new vehicle access (private light goods) and parking areas associated with Water Row together with any measures (including signage) to prohibit its use by vehicles with a total gross weight of more than 3,500 kilograms. The approved design and arboricultural method statement shall be implemented on completion of the construction of Water Row for residential (non-construction) use only. The vehicle access to and parking areas associated with Water Row shall not be used by vehicles with a total gross weight of more than 3,500 kilograms.

Reason: To ensure that retained trees and hedges on the site are adequately protected prior to commencement and during construction of the development and retained, in accordance with Policy 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 protected trees and hedges are mitigated from the outset of development.

13. Arboricultural Method Statement

No development (including ground works) or vegetation clearance works shall commence for any phase of the development before an Arboricultural Method Statement for the trees marked in orange on Drawing No 350 Rev C (Tree Overview) for each respective phase has been submitted to and approved by the Local Planning Authority. The Arboricultural Method Statement shall include:

- a. Excavation and dig methods;
- b. Tree protection methods

Reason: To ensure that retained trees and hedges on the site are adequately protected prior to commencement and during construction of the development and retained, in accordance with Policy 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 protected trees and hedges are mitigated from the outset of development.

14. Landscape EMP for woodland enhancement

No development (including ground works) or vegetation clearance works shall commence until a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include details relating to habitat creation, species specification and management. It shall include a Woodland Management Plan for the site. The LEMP shall include an implementation strategy and timetable for implementation. 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 are adequately protected and maintained prior to and during construction and occupation of the development, 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 protected trees and hedges are mitigated from the outset of development.

15. Biodiversity Enhancement

Prior to the commencement of any development (including ground works) or vegetation clearance on the site a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation and/or compensation measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the recommendations of the submitted Ecological Assessment (1348-EcIA-SC dated September 2023). Details of the bat boxes and bird boxes shall be submitted to and approved by the LPA prior to above ground development and thereafter shall be implemented in accordance with the approved details prior to the first occupation of the respective phase/building and retained in that condition thereafter.

Reason: In the interests of protecting existing wildlife and enhancing biodiversity on the site in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan 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.

Conditions

16.No works during bird nesting season

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

Reason: In order to protect ecology in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

17.Materials for each building - prior to above ground development

Prior to the commencement of above ground works for each phase or building of the development hereby permitted, samples and/or details of colour, type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the respective building or phase shall be submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: To ensure a satisfactory form of development in accordance with Policies DE1, DE5 and SS10 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

18.Management and Maintenance of Roads

Unless the roads are subject to a completed agreement under Section 38 Highways Act 1980 no works shall be carried out for the formation or construction of any road unless the local planning authority has approved a Road Maintenance Plan for that road including the arrangements for either adoption by the highway authority or the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the road and refuse collection throughout the lifetime of the development.

Where it is proposed that the estate roads shall be privately maintained no works shall be carried out above ground level until a Private Road Management Scheme has been submitted to and approved in writing by the local planning authority and which shall provide for:

- (a) The construction of the estate roads to an adoptable standard and the setting up a company or other entity to be responsible for the on-going management and maintenance of the road and refuse collection (the "Management Body").
- (b) How the company and the future management and maintenance of the road and refuse collection is to be financed including initial capital investment with subsequent funding.
- (c) The rights for and obligations on the Management Company to manage and maintain the road and collect refuse
- (d) Arrangements for the management and collection of refuse and waste from the dwellings.
- (e) A road management and maintenance and refuse collection schedule.

(f) How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.

(g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.

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

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

(a) Adopted by the highway authority as a highway maintainable at the public expense or

(b) Subject to an agreement with the highway authority under section 38 of the Highways Act 1980 for the adoption of the road; or

(c) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense shall be permanently maintained to the standard set out in the Private Road Management Scheme and retained and made available for its intended use for the lifetime of the development.

Reason: In the interest of highway safety and to ensure satisfactory waste collection; to ensure a satisfactory appearance to the highways infrastructure serving the approved development for the lifetime of the development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

19. Hard and soft landscaping details

Prior to first occupation of each phase of the development hereby approved a hard and soft landscape scheme shall be submitted to and approved for that phase in writing by the Local Planning Authority. The scheme shall include the following details:

(a) size, species and positions for new trees and plants,

(b) boundary treatments,

(c) surfacing materials (including roadways, drives, patios and paths)

(d) any retained planting and

(e) a detailed programme of implementation.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of a similar size and the same species. All hard landscaping works shall be permanently retained thereafter in accordance with the approved details.

Reason: In interests of visual and residential amenity and in accordance with Policies C4, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policies TH8 and TE5 of the Torquay Neighbourhood Plan.

20. Soft Landscaping Implementation

All planting, seeding and turfing comprised in the approved details of landscaping for each phase shall be carried out in the first available planting and seeding season following the completion of the development on that phase, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the landscaping die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with Policies DE1, DE3, SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

21. Hard Landscaping Implementation

Prior to the first occupation of any phase hereby permitted, the scheme of hard landscaping treatment for that phase shall be fully installed in accordance with the approved 'Movement Strategy (ref. no. BMN-APG-XX-ZZ-DR-A 0009 P2). Once provided, the agreed hard landscaping treatment shall be retained for the life of the development.

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

22. Pedestrian Link

Prior to the first occupation of the relevant phase of development the pedestrian links shown on the Movement Strategy (ref. no. BMN-APG-XX-ZZ-DR-A 0009 P2) shall be completed in that relevant phase and made available for public use and retained and maintained thereafter, specifically:

- East-west through the site, between A379 Teignmouth Road to the east and Seymour Drive in the west.
- Between Seymour Drive and the existing footpaths in Brunel Woods to the south of the site. No gates or barriers shall be introduced at any point that prohibit public access.

The approved links shall be implemented in full as detailed above or within a timeline agreed pursuant to this condition and maintained for such purposes thereafter.

Reason: In the interests of amenity and connectivity, in accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

23. Lighting Strategy

A detailed Lighting Strategy for each phase will be submitted for agreement with the Local Planning Authority prior to the above ground development for the relevant phase. The strategy will minimise indirect impacts from lighting associated with the pre-construction, during construction and operational activities, and demonstrate how

the best practice (BCT/ILP, 2018) guidance and the recommendations within the ecology report has been implemented. This will include details such as the following: artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with dwellings.

The development shall take place in accordance with approved lighting strategy. No additional lighting shall be installed within the site without previous approval in writing by the Local Planning Authority.

Reason: In the interests of protecting and enhancing biodiversity in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

24. Energy Renewables

The development shall be implemented in accordance with the principles set out in the submitted Energy and Sustainability Report (by apg dated June 2023). Prior to the development hereby permitted details of the sustainability measures shall be submitted and agreed in writing by the Local Planning Authority. The renewable energy equipment shall be provided in accordance with the approved details prior to first occupation and retained in that condition thereafter.

Reason: In the interests of carbon reduction and to ensure a satisfactory form of development in accordance with Policies ES1, ES2 and DE1 of the Torbay Local Plan 2012 and the National Planning Policy Framework.

25. Secured by Design

Prior to the above ground development for each phase, a scheme detailing security measures and how designing out crime, fear of crime and anti-social behaviour and ensuring the security and safety of future residents for the relevant phase have been considered and submitted to and approved in writing by the Local Planning Authority. The scheme shall also include details of an external lighting plan relating to the public realm and associated areas. Development shall take place in accordance with the approved details and shall be fully implemented prior to the occupation of the building(s) to which it relates. The scheme shall be retained and maintained for the lifetime of the development.

Reason: To ensure the safety and security of persons and property and to minimise opportunity for crime, fear of crime and antisocial behaviour. In accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030.

26. Details of boundary treatments within site

Prior to the above ground development for each phase hereby permitted details of all boundary treatments for the gardens and amenity areas for each building shall be submitted and agreed for the relevant phase in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of each building or phase and retained in that condition

thereafter. No further means of enclosure shall be provided within the site without the prior approval in writing of the Local Planning Authority.

Reason: To ensure a satisfactory form of development in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

27. New windows and doors

Prior to the above ground development of the remodelling and extensions to Brunel Manor details of all new windows and external doors to be installed in the respective building shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include materials, colour, means of opening and section drawings (including the reveals) at scale 1:10 or 1:20. The development shall be implemented in accordance with the approved details prior to first occupation of the respective building or part thereof and shall be maintained in that condition thereafter.

Reason: To ensure a sympathetic form of development and to preserve the character of the non-designated heritage assets further to Policies DE1 and SS10 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

28. Highway Works

No part of the development shall be occupied until details of the proposed full width on-carriageway bus stop and shelter (including details of the design, level and siting) and provision of a crossing to the southbound bus stop have been completed and made available for use in accordance with details approved by the LPA.

Reason: In the interests of a safe and adequate access to bus facilities and the convenience of occupants and visitors to the site further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

29. Highways Agreement – Section 278

The highway works referred to in the previous condition (no. 28) shall be in accordance with schemes and details submitted to and approved by the LPA through agreements under Section 278 Highways Act 1980 and other relevant enabling powers, entered into with the appropriate highway authority. The development shall not be occupied until the LPA has confirmed that all relevant highways agreements concerning the highway works have been entered into.

Reason: To provide safe and sustainable access to, and around, the site for all users in accordance with Policy TA2 of the Adopted Torbay Local Plan 2012-2030.

30. Parking Management Plan

No phase of the development shall be occupied until a Parking Management Plan for the parking and service areas serving that phase (including the allocation of parking spaces) have been submitted to and agreed in writing by the LPA. The development

shall be implemented in accordance with the approved details and maintained in that condition thereafter.

Reason: In the interests of a safe and adequate access and parking and the convenience of occupants and visitors to the site further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

31. Details of parking layouts and construction prior to above ground development -

Prior to the commencement of works above ground, development details of the surface, layout, construction and kerbs/edges of the respective car parking areas shown on Drawing BMN-APG-XX-ZZ-DR-A shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation, the parking areas shall be provided on the site in accordance with the approved details and shall thereafter be retained for their intended use with the associated development for the lifetime of the development.

Reason: In accordance with highway safety and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Adopted Torquay Neighbourhood Plan 2012-2030.

32. Landscape Restoration Strategy

The development shall be implemented in accordance with the principles set out in the submitted Landscape Restoration Strategy (by viridian landscape planning dated July 2023). The restoration shall take place in accordance with the approved details prior to first occupation and retained in that condition thereafter.

Reason: In the interests of the amenities of the area and in accordance with Policies DE1, DE3, SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

Informatives

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.

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| Bat informative | The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed, and experienced ecologist at the earliest possible opportunity. |
|-----------------|---|

| | |
|-------------------|--|
| Nesting birds | The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity. |
| Badgers | The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations, or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity. |
| Protected Species | Responsibilities of the applicant / developer. All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species. |

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay

SS3 – Presumption in favour of Sustainable Development.

SS4 – The Economy and Employment.

SS10 – Conservation and the Historic Environment.
SS11 – Sustainable Communities.
SS12 - Housing
SS14 - Low carbon development and adaptation to climate change
DE1 – Design
DE3 – Development Amenity.
DE4 – Building Heights.
ES1 - Energy
TA2 – Development Access.
TA3 – Parking Requirements.
ER1 – Flood Risk.
ER2 – Water Management.
NC1 – Biodiversity and Geodiversity.
HE1 – Listed Buildings
C4 – Trees, hedgerows and natural landscape features.
W1 - Waste management facilities

Torquay Neighbourhood Plan

TH8 – Established Architecture.
TH9 – Parking Facilities.
THW5 – Access to sustainable Transport.
TE5 – Protected species habitats and biodiversity.
TH10 – Protection of the Historic Built Environment.
TS1 – Sustainable Development.
TS4 – Support for Brownfield and Greenfield development.
TT1 – Change of use constraints within and outside a CTIA
TT2 – Change of use in Conservation Areas and Listed Buildings.
TH2 - Designing out crime
THW4 - Outside space provision

TORBAY COUNCIL

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|---|---|
| Application Site Address | Brunel Manor, Teignmouth Road, Torquay TQ1 4SF |
| Proposal | Application for listed building consent for the conversion of Brunel Manor to provide 17 dwellings. Includes the redevelopment and conversion of land at Brunel Manor, the retention of Brunel Court and Brunel Lodge to provide 9 dwellings and the construction of 9 new dwellings, with associated parking, access and landscaping (Please see accompanying P/2023/0606). |
| Application Number | P/2023/0616 |
| Applicant | ATA Estates (Brunel Manor) LLP |
| Agent | Oneleven Property |
| Date Application Valid | 10.07.2023 |
| Decision Due date | 09.10.2023 |
| Extension of Time Date | 28.06.2024 |
| Recommendation | Approval subject to: <ol style="list-style-type: none"> 1. The conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency. 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. |
| Reason for Referral to Planning Committee | Listed building consent application linked to major planning application P/2023/0606 |
| Planning Case Officer | Jim Blackwell |

the south and balustrades to the south terrace). The site is also within the Watcombe Park Conservation Area where several other listed buildings can be found.

Vehicular, pedestrian and cycle access to the site is from Teignmouth Road opposite Ashley Priors Lane. There is also a footpath linking with Seymour Drive to the north of the site. There are existing residential dwellings directly to the north on Seymour Drive and west at Kingsgate Close. The eastern boundary of the site comprises Teignmouth Road with residential flat development beyond. The site is approximately 2km from Barton and Watcombe where there are various shops, schools and recreation areas. There is a bus stop adjacent the site.

The site is subject to the following designations:

- Grade II listed buildings.
- Historic Park and Garden.
- Three group and individual Tree Preservation Orders.
- Watcombe Park Conservation Area.
- Local Green Space as designated in Torquay Neighbourhood Plan.
- Urban Landscape Protection Area.
- Located within Flood Zone 1.
- CIL Zone 3.
- John Musgrave Heritage Trail runs along the boundary of the development.

Description of Development

This is an application for listed building consent for the conversion of Brunel Manor to provide 17 dwellings. The wider scheme subject of the planning application includes the redevelopment and conversion of land at Brunel Manor, the retention of Brunel Court and Brunel Lodge to provide 9 dwellings and the construction of 9 new dwellings, with associated parking, access and landscaping. It would include the following mix of dwellings:

| Site/building | Type | Total |
|----------------------------|-----------------|--------------|
| Conversion of Brunel Manor | 2 bed house | 1 |
| | 3 bed house | 2 |
| | 2 bed apartment | 13 |
| | 3 bed apartment | 1 |
| | | |
| Total | | 17 |

In addition:

- Demolition of 20th century, unsympathetic extensions, alterations and additions.
- A variety of repair and restoration work.
- A new walkway canopy on the south and west elevations.
- New window and door screens following alterations.
- New glazed screens and door screens of the north elevation.

- New glazed door screens on the east elevation.
- Internal works including the insertion of new WC pods.
- Formation of a small number of new openings to facilitate access between rooms.
- Removal of service stairs in north west wing.
- Removal of some internal fabric to facilitate residential conversion.

A range of new information has been provided:

- Surface water drainage and attenuation tank details.
- Swept path analysis.
- Movement strategy.
- Waste Management Strategy.
- BNG information.
- Arboricultural Development Assessment.
- Transport Assessment technical note.
- Layby arrangement drawing.
- Vacant Building Credit position statement.

Pre-Application Enquiry and Engagement

DE/2021/0136 - 8 February 2022

The principle of the proposed residential development was considered to be acceptable subject to a wide range of considerations, particularly heritage, design and landscape.

The application is accompanied by a Statement of Community Involvement (SCI) which sets out the sequence of consultation and engagement undertaken since the applicant acquired the site in 2021. The key elements can be summarised as follows:

- Pre-application enquiry and engagement with Torbay Council – November 2021 to April 2023.
- Pre-application enquiry to Historic England - July 2022.
- Design Review – September 2022.
- Public Consultation and liaison with key stakeholders – March to April 2023.

Relevant Planning Policy Context

Listed building consent is required for any works for the alteration or extension of a listed building in any manner which would affect its character as a building of special architectural or historic interest (Section 7: Planning (Listed Buildings and Conservation Areas) Act 1990). This includes works that require planning permission but it also includes works that may not, for example internal alterations.

Under Section 1(5) (a) any object or structure fixed to the building; and (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building. As a consequence Brunel Court and Brunel Lodge are to be treated as part of the listed building.

Under Section 16, in considering whether to grant listed building consent for any works the local planning authority shall 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.

Under Section 72, with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

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 2012-2030 ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Heritage issues.
- 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/1980/0071 – Swimming Pool (25/02/1982) Approved.
- P/1994/0986 – Alteration and Change of Use to Conference/Retreat Centre (18/11/1994) Approved.
- P/1996/0913 - Extension to Existing Dining Room and Formation of Roof Light to Staff Laundry (24/10/1996) Approved.
- P/2004/1920 – Extension to Form Double Garage, Utility & WC (24/01/2005) Approved.

Summary of Representations

Five comments were received: three objecting, two supporting.

Objections can be summarised as:

- Extra traffic exiting the site and risk of collisions.
- Potential lack of parking.
- Amenity issues relating to traffic and noise.
- Loss of trees.
- Potential impact on bats and birds.
- Need for affordable housing.
- Disruption during construction works on utilities.
- Ensure fire safety.
- Future maintenance of the grounds in doubt without management.

- Architectural treatment.

Supporting comments include:

- Formalisation of the bus stop outside the site would be beneficial.
- Improvement to the managed landscape and trees.
- Provides jobs.
- Removes an eyesore.
- Provides houses.
- The scheme will safeguard the fabric of the historic manor and remove detrimental additions. Without a viable scheme the manor will fall into further disrepair, and we risk losing another historical asset in Torbay.
- The proposals for the manor are sympathetic as are the proposed works to the Lodge and Court. The new build properties are sympathetic to the setting of the site and adjacent historic structures.

Summary of Consultation Responses

Torquay Neighbourhood Plan Forum:

Overall support. Registers three concerns:

- H2 Affordable Housing. Lack of affordable housing.
- TA2 Development access. Current access arrangements from Teignmouth Road.
- TTR2 Sustainable Communities. Not close to places of work, education, recreation and shopping.

Devon and Cornwall Police:

No objection.

Comments included the need to take care over defining public and private space. Ensure clear signage is used where necessary. Recommend the use of door entry security. Recommend boundary treatment and hedges are at a suitable height to prevent unauthorised entry. Recommend that bicycle and bin stores should be lockable to prevent unauthorised access. Concern over the use of car parking away from the properties.

Victorian Society:

Brunel Manor and the surrounding Watcombe Park form a significant group of historic buildings and landscape. Originally envisaged by Isambard Kingdom Brunel as the home for his retirement, he created a landscape with the help of his gardener Alexander Forsyth, on the advice of William Andrews Nesfield. Later Brunel commissioned William Burns to design a house, only the foundations and basement being completed. In c1870 the existing house was constructed for JR Compton, a Lancaster industrialist. Despite changes of use and alterations the building is notable for its surviving historical features and 'eclectic detail'.

The proposed residential redevelopment of the site is in principle acceptable. However, the quantum and detail of the development raises concern. The subdivision

of Brunel Manor into multiple units is acceptable but the proposed 13 units represents a concerningly high quantum of development. The principal interior spaces remain in good condition and the proposed insertion of 'pods' would harm their appreciation and the significance of the building. We recommend that a smaller number of units is explored that would allow significant interior spaces to remain as designed.

In principle there is scope for some new development within the site. However, the proposed residential units would harm the setting of the listed building and the significance of the registered landscape. Proposed so close to the historic building, the new units would detract from its perception within the landscape. This negative impact would be increased by their design which is at odds with the historic buildings on the site, this would emphasise their imposition on the historic landscape and contend with the listed building. A further concern is the number of cars that would be introduced into the site with the creation of so many dwellings, this would further encumber a landscape that should retain its historic character.

We recommend that options are explored for dwellings in more discreet parts of the site and that a design language inspired by C19 estate architecture would be more suitable for new development on the site. This extends to the proposed extensions to the lodge which would be successful if designed to complement the existing building.

The NPPF states: '199. 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 '206. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.' Although the proposals will offer some heritage benefits such as the demolition of harmful C20 development on the site, they will not ensure the conservation or enhance the significance of the listed building, registered landscape or Conservation Area. We object to the application in its current form and recommend the applicant seriously reconsider their proposals.

Historic England:

15.08.2023

Impact on the significance of Brunel Manor, Watcombe Park and Watcombe Park Conservation Area

The proposals involve the demolition of modern extensions to the main house, the construction of 9 new dwellings alongside landscaping and other works.

Historic England are supportive of the removal of the extensions at the eastern part of Brunel Manor. However, we have concerns about the visual impact that the proposed Woodland Row development would have in views within the Conservation Area and registered garden.

The Woodland Row proposals are incongruous in their design with the house. In their current form and position, directly to the east of the main house, the proposals would negatively impact on main views to the house within the garden, and on the approach to the house. They would erode the historic character of the Conservation Area and the surrounding parkland through their unsympathetic design, which does not adequately reference the aesthetic and architectural form of Brunel Manor.

We also have concerns about the form of the Water Row proposals, specifically their form. The proposed buildings similarly fail to respond to the historic character of Brunel Manor.

The flat rooflines of the Woodland Row and Water Row proposals do not respond to the gabled, pitched roofline of Brunel Manor, and would appear incongruous with the form of both the north and south elevations of Brunel Manor. The pink limestone chosen for the masonry elements of the Woodland Row would appear stark against the grey limestone of the south façade, visually competing with the principal building in views from the south.

Historic England has concerns about the visual impact of the Woodland Row and Water Row proposals. We recommend that your authority seeks amendments on the form, materiality, design and massing of the buildings, which are currently incongruous with the historic character of Brunel Manor, and will cause harm to its significance, and that of the registered garden. (Para 195).

In our opinion the current proposals will not sustain or enhance the heritage assets that are affected by the proposals, nor make a positive contribution to local character (Para 197).

Due to the significant position of the sites within the Conservation Area and the designated landscape, the conservation of these designated heritage assets should be at the forefront of decision making. (Para 199). Once these amendments have been sought, the harm that is caused should be weighed against the public benefits that will arise from the proposals. (Para 200 & 202). We leave this exercise to your authority to carry out.

30.10.2023

We have been consulted on amendments to the application, in the form of a letter from the planning agent in response to our previous letter of advice.

Having considered the amended information, our initial letter continues to reflect our formal advice, and position.

Whilst we are supportive of the removal of the extensions at the eastern part of Brunel Manor, we maintain our view that the design of both the Woodland Row and Water Row elements of the proposals are incongruous with the character of Brunel House, and do not adequately reference the aesthetic and architectural form of Brunel Manor.

The rectangular, modular form and flat roofs of the Woodland Row proposals are unsympathetic to the form and roofline of Brunel Manor. The use of pink limestone in the Woodland Row proposals, whilst aiming to appear reference the service elements of the house, will introduce a comparatively vibrant tone to the otherwise muted colour palette of the south elevation of the house. The proposed pink limestone would appear visually conspicuous in views within the conservation area and registered landscape. We also have concerns about the form of the Water Row proposals, specifically their rectangular form, and flat rooflines, which similarly fail to respond to the form of Brunel Manor.

Overall, we do not advocate for any new development to replicate Brunel Manor, but rather a design that greater references the form and materiality of the building and provides a more contextual response.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

Should your Council be satisfied that the proposals for housing as a replacement to ancillary buildings is acceptable in principle, we recommend that amendments are made to the design of those dwelling to reduce the harm that we have identified. We recommend that your authority seeks amendments to the Woodland Row and Water Row elements of the proposals that address the negative impact that their proposed design, form and massing would have on the Conservation Area, registered landscape and the setting of Brunel Manor.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of development
2. Impact on heritage assets
3. Design and visual impact
4. Ecology and biodiversity
5. Design out crime
6. Low carbon

1. Principle of development

The proposal is for residential conversion and includes a demolition of 20th additions, a range of repairs, renovation and conservation of existing fabric and features. There are no policy conflicts identified with regard to the principle of the proposed development relating to the listed buildings and structures.

2. Impact on Heritage Assets

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that "*In considering whether to grant listed building consent for any works the local planning authority or, as the case may be, the Secretary of State shall 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”.

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

Paragraph 203 of the NPPF goes onto to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 of the NPPF considers that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.

Paragraph 206 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), requires clear and convincing justification. Substantial harm to or loss of grade II listed buildings, or grade II registered parks or gardens, should be exceptional.

Paragraph 208 of the NPPF outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

With regards to non-designated heritage assets, Paragraph 209 of the NPPF advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 210 of the NPPF confirms that should a heritage asset be lost either wholly or in part, local planning authorities should take all reasonable steps to ensure that the new development will proceed after the loss has occurred.

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance

of Torbay's conservation areas. Policy TH10 of the Torquay Neighbourhood Plan supports alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

Brunel Manor sits with part of its former grounds at the north eastern edge of Torquay, within Watcombe Park and the Watcombe Park Conservation Area. The site was originally acquired by the civil engineer Isambard Kingdom Brunel between 1847 and 1857 and was intended to be his retirement home. Brunel's ill health led to the sale of the site in 1859, just days before his death; only the foundations and cellars of his planned house had been completed at this time.

The parkland's construction began in 1848, in advance of the construction of Brunel's house and was predominantly designed by himself. The drive approach from the west to the house was designed with planting, where some larger trees and herbaceous shrubs still exist. The 1st edition OS map shows mature trees planted immediately to the east of the house, but these have been removed to accommodate an extension and car parking. As noted in the Conservation Area Appraisal the tree coverage contributes towards the character and appearance of the Conservation Area.

The current house was completed in around 1870 by J Watson for JR Crompton, a paper manufacturer from Lancaster, on the site of Brunel's intended house. Brunel Manor is a large and highly eclectic late Victorian mansion, constructed from limestone rubble, with bath stone dressings and predominantly pitched, slate roofs. The gabled dormers and barge boarding of the south elevation have created a Gothic house that is enhanced by its position within the designed landscape.

Designations

The property contains four Grade II Listed Buildings:

- Brunel Manor – the subject of this application.
- Two flights of steps with balustrades to south of Brunel Manor.
- Balustrades to south terrace of Brunel Manor also covers both the Listed flights of steps and balustrades).
- Gate piers and walls at entrance to Brunel Manor.

A Heritage Statement by AC Archaeology has been submitted in support of the application.

The entire site falls within the Watcombe Park and Brunel Manor Grade II Registered Park and Garden. This designated area is, however, larger than the current property, and extends slightly to its northwest, and to the south and then southeast and southwest of the present Brunel Manor. Its boundaries define the surviving extent of Watcombe Park, along with some developed land along Seymour Drive to the northwest of Brunel Manor. Watcombe Park was historically much larger.

Brunel Manor now comprises less than 10% of the land originally purchased by Brunel for his park and wider estate.

The whole property lies within the Watcombe Park Conservation Area. Brunel Manor is at the centre of this designated area and includes the whole of the Registered Park and Garden. It also extends southeast taking in early and mid 19th century villas alongside and to the east of the A379. Most of these villas predate the completion of Brunel Manor. They include Watcombe Lodge rented by Brunel whilst he was developing his mansion at Watcombe.

In summary, the proposed works would create 17 units (see table above). Works requiring listed building consent include:

- Demolition of 20th century, unsympathetic extensions, alterations and additions.
- A variety of repair and restoration work.
- A new walkway canopy on the south and west elevations.
- New window and door screens following alterations.
- New glazed screens and door screens of the north elevation.
- New glazed door screens on the east elevation.
- Internal works including the insertion of new WC pods.
- Formation of a small number of new openings to facilitate access between rooms.
- Removal of service stairs in north west wing.
- Removal of some internal fabric to facilitate residential conversion.

Significance

The grade II Listed Building of Brunel Manor is of 'national importance'. Its significance derives from its architectural, aesthetic, artistic, and historical values, as well as several aspects of its setting. Its architectural and historical values are considered the most important, but with the others also contributing to its significance at a high level. Brunel Manor is also an important building locally, considering Isambard Kingdom Brunel time spent in Torquay and Devon during the last decade of his life. It is considered to be a heritage asset of high significance.

Brunel Manor's architectural value relates to its design as a Victorian villa. It has group value with other large villas and their associated grounds locally in Watcombe and wider Torquay.

During the 20th-century many alterations and extensions were undertaken to create a conference centre. This included the creation of a first floor above the Rodenhurst Room, construction of a dining room extension on the footprint of a veranda and upper terrace, subdivision of historic bedrooms on the upper floors, compartmentalisation of corridors to create fire barriers, and construction of the conference room and residential accommodation. These modern changes do not contribute to the significance of the building.

Brunel Manor has aesthetic value relating to its architecture, internal fixtures and finishes, particularly visible in the ground floor reception spaces and rooms. There is a clear relationship between the house and gardens.

There is also artistic value relating to the quality of its fixtures, fittings and finishes. This largely relates to the high level of investment in the building.

The significance of both Brunel Court and Brunel Lodge is drawn from their architectural, historical and aesthetic values and from aspects of their setting, all at lower levels. The buildings are also important for their group value with Brunel Manor, as part of the later 19th-century development of Watcombe park. They are considered to be heritage assets of low significance.

The designated landscape is summarised most clearly within the Watcombe Park Conservation Area Character Appraisal as:

'The ensemble of the listed Brunel Manor and the registered Historic Park and Garden are combined in the Watcombe Park Conservation Area, both contribute to an area of local distinctiveness and national importance. They form an attractive and environmentally sensitive part of Torquay. The origins of the historic park and its association with possibly the most famous of the great 19th century engineers gives the conservation area much of its historic status and a uniqueness, for there is no other landscape known to have been created by Brunel.'

Brunel Court and Brunel Lodge are not listed in their own right but are principal ancillary buildings to Brunel Manor. Brunel Court is the former stable block complex already converted into five residential units. They are not listed in their own right but can be considered to be curtilage listed in relation to Brunel Manor. Both date to the 1870s with extensions in the same decade at the latter. Both buildings have been extended as well as altered internally, which has impacted on their significance.

The important elements contributing to the character of the Watcombe Park Conservation Area are summarised in the CAA:

- *first and foremost Brunel's unique designed landscape of the 1850s aided by Forsyth, with the historic house of 1870 including the early work by Burn, and Nessfield's later work;*
- *the large extent of remaining open space within the historic park, including the extensive network of footpaths in Brunel Woods provided for public recreation;*
- *the 19th century villa development orientated towards the sea, some of which remain significantly unaltered, including the original spatial arrangement, roof profiles, stacks and original pots, etc;*
- *the range of historic frontage and layout forms employing an intricacy of detail, and using a range of materials including mid-19th century decorative stucco cornices and moulding, and the later-19th century use of polychromatic building materials;*
- *the survival of a high proportion of period detail, both internal and external, such as original sash windows with their glazing bars, stained glass, moulded architraves, and panelled doors, shutters and reveals;*
- *the survival of boundary walls using local grey limestone and red sandstone;*

- *the location of the Watcombe Beach Road public car park, providing access to an unspoiled beach; the Valley of the Rocks; woodland and coastal walks with access to the South West Coast Path;*
- *extensive tree cover and tree groups which often act as an important foil to buildings, especially in the Beach Road area.*

Impact on Brunel Manor

Turning to impact, the key buildings are identified as the existing Manor House, Brunel Lodge and Court and the Gardens and wider landscaping.

This listed building consent application relates to Brunel Manor. The removal of the 20th century extensions will enhance Brunel Manor internally and externally. A number of the large existing rooms have been split into small bedrooms at the upper levels, abutting newer partition walls to windows which occasionally cut across multiple rooms. In places this has created compromised proportions for rooms and obstructed some of the existing coving and original features. Additional boxing around feature staircases, covering of tiled floors, commercial kitchen features have undermined the character and fabric of the building. The proposals strip these interventions back to reveal and repair existing key features and reinstate the grand architectural proportions.

The principle of the formation of new residential units is generally supported, particularly as the buildings original intended use was residential. The majority rely on removal of stud walls, various mechanical and electrical installations to enable the reformation of the original rooms. Bathroom pods have been proposed following a design evolution to ensure they are essentially removable whilst limiting the impact on the room proportions. Unit 4 in particular required a sensitive approach to gain access to the upper floor. The pods are designed to be a light touch intervention, ensuring there is no damage to the historic coving or skirting where they meet with sensitively scribed detail around the timber or plaster profiles. A 10mm offset is proposed which intersects with a shadow gap, elevating the design of the insertion and ensuring the modern intervention does not damage the historic fittings. The impact of the internal works is fully supported.

The proposals include the removal of some original internal partitions and service staircases, but these losses have been mostly kept to the service wing and have been kept to a minimum. This has been necessitated by the existing layouts in this wing, accessed from corridors arranged around the historic kitchen and dining room, and with an odd arrangement of staircases to the upper floors. This will cause some harm, as it will permanently remove the layout of some rooms. However, the key intact historic spaces within this range, specifically the kitchen and dining room with bedroom over the latter, will be retained and converted.

The proposals for Brunel Manor include both positive and negative elements. Much of the work is focused on the renovation of the Listed Building that has been vacant for nearly four years. There are a number of structural issues that need to be rectified

through a viable long-term use for the building which is considered positive. The Statement of Heritage Significance states that the overall the proposals would result in a negligible positive change to the significance of Brunel Manor.

The blind arcading in the north elevation of the ballroom/Rodenhurst Room is to be opened up and new glazed screens and doors added. Conditions have been suggested to ensure the details are at an appropriately high level.

For clarity, within the gardens there are two flights of steps with balustrades to south of Brunel Manor which are listed. There would be no alterations taking place only adjoining resurfacing. Repairs are also underway following anti-social behaviour issues.

The gate piers and walls at entrance to Brunel Manor are also listed but no alterations are included with this scheme, only sensitive repairs as required.

Historic England were consulted at pre-application stage. During the application they provided two consultation responses. Clearly, there is support for the removal of the modern extensions. However, they are silent on the implications for Brunel Manor forming part of this listed building consent. Wider issues and concerns are considered in the planning application Officer report.

The Victorian Society are supportive of the residential conversion of Brunel Manor, however, raise some concerns over the quantum of development. The insertion of 'pods' is a concern. This matter is discussed above and would be entirely reversible. The room proportions would still largely be read.

A number of conditions have been suggested to ensure the significance of the heritage asset is maintained and dealt with appropriately. These are considered proportionate whilst recognising the significance of the building:

- protection of architectural features.
- materials.
- schedule of works.
- written scheme of investigation.
- police recommendations.
- joinery details.
- schedules of repair.
- matching details.

The setting of listed buildings

The setting of listed buildings is dealt with largely in the planning application Officer report. Early engagement through the pre-application advice process and DRP were critical in assessing where new development could be achieved whilst carefully considering the setting of Brunel Manor given the potential impact on its setting. The process considered the preservation of the formal and less formal parkland and gardens around the listed building. The valley topography of the house and its

surrounding gardens therefore forms one part of its setting contributing to its significance.

It is clear that the later buildings and additions compromise the overall setting of Brunel Manor and their removal is supported.

Conclusion on setting

The key consideration relates to the impact on the setting of the listed building. The removal of modern and poor quality additions and built elements is considered positive.

Conclusions

The above conclusions have consideration of Paragraph 205 of the NPPF which identifies that when considering the impact of a proposed development works 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.

These conclusions have taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority, when making a decision on any decision on a planning listed building consent application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses and in relation to any buildings or other land in a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The proposal is considered to be in accordance with Policies DE1, and SS10 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

3. Design and visual Impact

With regards to design, the National Planning Policy Framework (NPPF) requires good design to create better places in which to live and work and to make development acceptable to communities. Developments should be well-designed and take the opportunities available for improving the character and quality of an area and the way it functions. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE5 of the Local Plan states that extensions should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy TH8 of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The key elements can be summarised as follows:

- Pre-application enquiry and engagement with Torbay Council – November 2021 to April 2023.
- Pre-application enquiry to Historic England - July 2022.
- Design Review – September 2022.
- Public Consultation and liaison with key stakeholders – March to April 2023.

A Design and Access Statement (DAS) (by APG Architecture) and a Landscape and Visual Appraisal (LVA) (by landscape advisors Viridian Landscape Planning). The LVA considers the likely visual effects of the proposal which are linked to a proposed landscape strategy and restoration plan for the site.

In terms of the Listed Building Consent application, the key benefits can be seen through the removal of poor quality 20th century additions.

Conclusion

Subject to the suggested conditions, the proposal is therefore deemed to comply with Policies DE1 and DE5 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

4. Ecology and Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by 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 site lies:

- approx. 820m west of Lyme Bay and Torbay SAC.
- and borders Brunel Woods OSWI to the south and west of the site.

In terms of the listed building consent application relating to Brunel Manor, the Devon County Council Ecologist has no objection and has commented as follows:

The loft and roof space within Brunel Manor had evidence of bats. The majority are to be retained and as the bats would be undisturbed the bats would be left in situ. A section of loft space to form apartment 15 contains a brown long eared bat roost. This is a common species and are considered of low conservation value and therefore, the proposed works will result in an adverse impact at no more than the local level. However, as these works will require a licence, the site will require consultation with Natural England concerning a European Protected Species (EPS) Mitigation Licence (Bats).

Subject to the addition of suitable conditions and informatives, the proposal is therefore deemed to comply with Policies NC1 and C4 of the Local Plan.

5. Low Carbon / Climate Change

The NPPF guides that the planning system should support the transition to a low carbon future in a changing climate, including helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and support renewable and low carbon energy and associated infrastructure (Paragraph 157).

Policy SS14 of the Torbay Local Plan supports national guidance and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

Section 13 of the Design and Access Statement submitted in support of the proposal includes sections on Designing for the climate crisis, sustainability and wellbeing principles, construction and cladding methods. An Energy and Sustainability Report has also been produced.

Primarily there are benefits to the retention of an historic range of buildings and their renovation. The removal of poor quality buildings and structures are fully justified in heritage terms, but also when considering the structure issues in some cases. There is also a large body of evidence around the benefits of retained and restored timber windows if functioning correctly.

Subject to the suggested conditions, the proposal is therefore deemed to comply with Policies SS14 and ES1 of the Local Plan.

6. Designing Out Crime

Policy DE1.4 of the Torbay Local Plan seeks development proposals to be designed to reduce crime and the fear of crime by the promotion of safety and security in the design of buildings and surrounding space, whilst ensuring that amenities are not unduly affected. Design should also minimise opportunities for community conflict, antisocial behaviour and maximise safety for all.

Comments from Devon and Cornwall Police included the recommendation for the use of door entry security and lobby where necessary. A condition has been suggested to manage the security given any system would need to be fixed to the fabric of the listed building. This requires careful examination and execution to minimise its impact. The formation of lobbies could have an impact on room layout and historic proportions and has been omitted from the scheme and conditions.

Subject to the suggested condition, the proposal is therefore deemed to comply with Policies DE1 of the 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. The application has been supported by a Sustainability Checklist. Each of which shall be discussed in turn:

The Economic Role

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

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

The buildings have been vacant for a number of years and this development would them back to full residential use.

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

The Social Role

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

There would be a detrimental impact on local services i.e. schools, doctors surgeries etc, however this can be mitigated via Section 106 contributions.

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

The Environmental Role

The environmental benefits of this development are considered positive. It provides a long-term use for buildings that has embodied energy within their fabric.

With respect to the environmental role of sustainable development, the elements that are considered especially relevant to the proposed development are impacts on heritage assets, ecology and biodiversity and carbon reduction. These matters have been considered in detail above.

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.

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.

Planning Balance

The planning assessment considers the policy and material considerations in detail.

Conclusions and Reasons for Decision

The proposal is acceptable in principle as it would not result in unacceptable harm to the listed building, its setting and the setting of other listed buildings, the conservation area and the historic garden. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

The works are also considered to have a positive impact on the listed building with the added public benefit through the continued use of this key heritage asset.

The proposals are considered to be in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval subject to:

1. The conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
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.

Pre-commencement conditions

1. Protecting architectural features

Prior to the commencement of any works details identifying the architectural features which are to be retained and the method by which these features will be safeguarded during the carrying out of the approved development shall be submitted to and approved in writing by the Local Planning Authority. The approved protective measures shall be implemented and kept in place in accordance with the details so approved for the duration of the development works.

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

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

2. Written Scheme of Investigation

Prior to the commencement of any works, the implementation of a programme of archaeological work shall have been secured in accordance with a written scheme of investigation (WSI) which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the WSI which shall be implemented in full. No building shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the WSI.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 211 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

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

Conditions

3. Materials

The works hereby approved shall be constructed in full accordance with the materials specified on the approved plans unless otherwise agreed in writing. Once constructed no further changes to the masonry finish including colour shall be permitted without the prior consent of the Local Planning Authority.

Reason: To ensure a satisfactory form of development and in accordance with the requirements of policy DE1 of the Torbay Local Plan 2012-2030.

4. Schedule of works

The conservation repair works shall be completed in accordance with the approved schedule of works and shall be retained as such at all times thereafter.

Reason: In order to preserve the heritage asset in a manner appropriate to its significance and in order to comply with Policies SS10 & HE1 of the Torbay Local Plan 2012-2030.

5. Joinery details

No installation of the panelling/staircases/cornice/arcading/new openings/glazed screens/doors shall commence until full details have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out only in accordance with the approved details and retained thereafter.

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

6. Matching details

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

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

7. Ecology Mitigation Measures:

The development shall proceed in full accordance with the submitted and approved Ecological Impact Assessment Report (dated September 2023 ref. no. 1348-EcIA-SC by GE Consulting).

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

8. No works during bird nesting season

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

Reason: In order to protect ecology in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

9. Police recommendations

Prior to the first use of the development hereby approved, a scheme of measures for designing-out crime shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully installed prior to the first use of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Torquay Neighbourhood Plan policy TH2.

Informative(s)

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.

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| Bat informative | The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed, and experienced ecologist at the earliest possible opportunity. |
| Nesting birds | The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity. |
| Badgers | The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations, or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is |

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| | recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity. |
| Protected Species | Responsibilities of the applicant / developer. All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species. |

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 – Presumption in favour of Sustainable Development.
SS4 – The Economy and Employment.
SS10 – Conservation and the Historic Environment.
SS11 – Sustainable Communities.
SS12 - Housing
SS14 - Low carbon development and adaptation to climate change
DE1 – Design
DE3 – Development Amenity.
DE4 – Building Heights.
ES1 - Energy
TA2 – Development Access.
TA3 – Parking Requirements.

ER1 – Flood Risk.
ER2 – Water Management.
NC1 – Biodiversity and Geodiversity.
HE1 – Listed Buildings
C4 – Trees, hedgerows and natural landscape features.
W1 - Waste management facilities

Torquay Neighbourhood Plan

TH8 – Established Architecture.
TH9 – Parking Facilities.
THW5 – Access to sustainable Transport.
TE5 – Protected species habitats and biodiversity.
TH10 – Protection of the Historic Built Environment.
TS1 – Sustainable Development.
TS4 – Support for Brownfield and Greenfield development.
TT1 – Change of use constraints within and outside a CTIA
TT2 – Change of use in Conservation Areas and Listed Buildings.
TH2 - Designing out crime
THW4 - Outside space provision