

Friday, 4 October 2024

PLANNING COMMITTEE

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

Monday, 14 October 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

Councillor Brook (Chairman)

Councillor Billings (Vice-Chair)

Councillor Mandy Darling

Councillor Fox

Councillor Pentney

Councillor Strang

Councillor Tolchard

Councillor Virdee

A Healthy, Happy and Prosperous Torbay

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

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

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

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 5 - 8)
To confirm as a correct record the Minutes of the meeting of this Committee held on 24 June 2024.
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 Chairman decides are urgent.
5. **41 Sands Road, Paignton, TQ4 6EG (P/2024/0529)** (Pages 9 - 50)
Change of use from use class C1 guest house with owners accommodation to (Sui Generis) large HMO for YMCA supported housing.
6. **39 Sands Road, Paignton, TQ4 6EG (P/2024/0374)** (Pages 51 - 96)
Temporary supported accommodation for the YMCA (sui generis use) (updated description and plans received 20/09/2024).
7. **Brends Orchard, Land Adjacent, Edginswell Farm House Edginswell Lane (P/2023/0172)** (Pages 97 - 132)
Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-

establishment of orchard included in project (plans amended 25 April 2024).

8. **12-14 Victoria Street, Paignton, TQ4 5DN (P/2024/0293)** (Pages 133 - 154)
Change of use from offices (Class E) to 12no residential flats (Class C) with external alterations including two dormer windows.
9. **Appeals Monitoring Report** (Pages 155 - 164)
To note the report and Appendix 1 which includes the planning appeal decisions issued between 31 March and 30 September 2024.

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, 9 October 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

24 June 2024

-: Present :-

Councillor Brook (Chairman)

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

(Also in attendance: Councillors Barbara Lewis, Chris Lewis and David Thomas)

55. Apologies for absence

Apologies for absence were received from Councillors Pentney and Virdee.

56. Minutes

The minutes of the meeting of the Committee held on 29 April 2024 were confirmed as a correct record and signed by the Chairman.

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

The Committee considered an application for installation of coastal defences and associated works.

Prior to the meeting written representations were available on the Council's website.

At the meeting the Planning Officer advised, that since the report had been published, an additional letter of representation had been received relating to an extant planning permission, responses had been received from Torbay Design Review Panel (Design West) and the Geopark Management Group, both supporting the scheme; WSP on behalf of the Local Highway Authority which had proposed additional planning conditions relating to a road safety audit, cycle parking, pedestrian infrastructure, a Construction Management Plan and stopping up; and from Active Travel England who had proposed deferral requesting further assessment, evidence, revisions and dialogue particularly around the contraflow cycle lane being provided with physical protection from reversing vehicles or re-design to improve visibility and reduce the risk of conflict between motor vehicles and cyclists.

Resolved:

Approved subject to:

1. the conditions as outlined within the submitted report;

2. the inclusion of additional conditions relating to a road safety audit, pedestrian infrastructure, and stopping up;
3. reconsidering the use of Condition 12 to reflect the overriding public interest in carrying out the works;
4. the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
5. 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.

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

The Committee considered an application for demolition of existing hotel building and erection of 14 residential apartments, and associated parking and landscaping.

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 Mike Cowdery addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Mr Alan Griffey addressed the Committee on behalf of the St Marychurch Community Partnership Steering Group in support of the application. Mr Martin Hill addressed the Committee in support of the application.

At the meeting the Planning Officer advised Members that since the submitted report was published, the underground recycling and waste storage plan had been replaced by a new proposed layout for waste storage points which were not located underground. No further consultation had been undertaken in respect of the new proposed layout.

Resolved:

Approved subject to:

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

59. Brunel Manor, Teignmouth Road, Torquay (P/2023/0606)

The Committee considered an application for 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.

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 Mike Cowdery addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Mr Ian Jewson addressed the Committee in support of the application.

Resolved:

Approved subject to:

1. the completion of a Section 106 agreement;
2. the planning conditions outlined in the submitted report, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
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.

60. Brunel Manor, Teignmouth Road, Torquay (P/2023/0616)

The Committee considered an application for listed building consent for the conversion of Brunel Manor to provide 17 dwellings, including 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.

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 Mike Cowdery addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Mr Ian Jewson addressed the Committee in support of the application.

Resolved:

Approved subject to:

1. the conditions outlined within the submitted report, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and

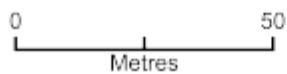
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Chairman

TORBAY COUNCIL

Application Site Address	41 Sands Road Paignton TQ4 6EG
Proposal	Change of use from use class C1 guest house with owners accommodation to (Sui Generis) large HMO for YMCA supported housing.
Application Number	P/2024/0529
Applicant	City of Exeter YMCA
Agent	Mr Andrew Farrell
Date Application Valid	14/08/2024
Decision Due date	09/10/2024
Extension of Time Date	18/10/2024
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below 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> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by the Divisional Director – Planning, Housing & Climate Change
Planning Case Officer	Verity Clark

Location Plan



Site Details

The site is 41 Sands Road, Paignton which is a semi-detached property in use as a C1 guesthouse with 8/9 rooms with owner's accommodation known as Seacroft Guest House. The guesthouse is spread over four floors and features a front terrace garden and a rear courtyard garden.

The east of the site benefits from a driveway for 6 cars with a vehicular access point onto Adelphi Lane.

The site is within a Community Investment Area and is within the Paignton Neighbourhood Plan Core Tourism Investment Area but is outside of the Local Plan Core Tourism Investment Area allocation.

The site is located within Flood Zone 2 and 3 and a critical drainage area.

The Roundham and Paignton Harbour Conservation Area is located to the south of the site with the boundary starting in the middle of Sands Road.

Surrounding uses are a mix of residential and holiday accommodation.

Description of Development

Full planning permission is sought for the change of use of the building to a sui generis large HMO for YMCA supported housing. The application has come forward in conjunction with application P/2024/0374 for the attached semi-detached property; 39 Sands Road.

The proposal will result in 9 bedrooms with communal facilities including shared sitting/dining rooms and a conservatory (for use in conjunction with the occupiers of 39 Sands Road) and a kitchen and utility room.

No external changes are proposed to the building however it has been confirmed that signage relating to the holiday use will be removed. The vehicular access will be unchanged and will continue to be via Adelphi Lane.

The property would be run by YMCA Exeter, which is a registered provider, as affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. 9 single occupancy rooms with shared facilities will be provided where occupants will receive support relating to employment, meaningful occupation, training and education (EMOTE) and will engage in work placements, educational placements, volunteering or engagement within the service itself or social enterprise projects that the service develops. All young people will have named support workers, a personalised support plan, access to therapeutic services and counselling, regular groups, workshops and social, sporting and creative activities.

Young People will live in this 'Stage 2' move on accommodation whilst they engage in the EMOTE programme. Engagement in the programme is a requirement of being referred to the programme and a requirement within their excluded licence agreement for continued occupation. Young people will progress through the

programme at differing speeds and in various routes. The general timeframe for Stage 2 accommodation is between 6 and 12 months, sometimes this extends to 18 months due to the need to access a particular type of move on accommodation, affordability or suitability of options for move on or the need to extend to avoid a person moving on prematurely before they are fully equipped to do so. For this reason, and as the availability of accommodation can differ between Local Authorities, the maximum length of stay is set at 3 years.

Onsite staffing will be shared between the application site and adjacent 39 Sands Road with staff present between 9am to 10pm after which staffing provision remains on call.

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation document
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Policy Guidance (PPG)
- Roundham and Paignton Harbour Conservation Area Appraisal
- Healthy Torbay SPD
- Torbay Council's Community and Corporate Plan 2023-2043
- Torbay Council's Corporate Parenting Strategy draft consultation document
- Torbay Council's Housing Strategy 2023 to 2030
- Homelessness and Rough Sleeping Strategy 2020-2025 draft consultation document
- English Riviera Destination Management Plan 2022-2030
- 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.

Summary of Consultation Responses

Drainage Engineer –

The applicant has correctly identified that the proposed development lies within flood zone 3.

Where sites are identified within Flood Zone 3 the developer is expected to submit a site specific flood risk assessment. The flood risk assessment must demonstrate that the development will be safe from all sources of flooding without increasing flood risk elsewhere and where possible will reduce flood risk overall. Within the site specific flood risk assessment I would have expected to see the sources and predicted depth of flooding being identified, the proposed finished floor levels for the ground floor, details of safe access and egress routes, details about what to do in an emergency including safe refuges, details of flood mitigation measures being proposed including an emergency flood plan for all buildings on the site. In addition the flood risk assessment should identify that the owner/manager of the building will be signed up to the Environment Agency's coastal flood warning system.

The submitted flood risk assessment addresses the issues raised above.

It should be noted that existing flats are located on the ground floor and basement of this property and no new flats are being proposed on the ground floor or basement of the development, Following conversion, the existing flats must have access to upper floor levels within the building should a flood event occur.

Based on the above comments, providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, I have no objections on drainage grounds to planning permission being granted for this development.

Highways -

The application is for the Change-of-Use from Use Class C1 Guest House (includes Basement Owner's Accommodation), to a Sui Generis Shared House (HMO) for YMCA supported housing. The Shared House would provide supported accommodation in nine Cluster Bedrooms, utilising the existing ensuite bedrooms on the upper floors and the existing basement flat arrangement, sharing the existing kitchen and sitting / dining room spaces on the ground floor. No works in alteration are proposed, internally or externally.

Owned by a charity, it is understood the development is undertaken wholly or mainly for charitable purposes. The existing use of the site falls within Class C1 Guest House including existing basement owner's accommodation. Currently the building is called Seacroft Guest House.

The site is located at the junction of Sands Road and Adelphi Lane, near the seafront. The main vehicular access to the site is through Adelphi Lane which does not have footways on either side of the road. Sands Road has footways on both sides and provision for on-street parking on the southern side of the road. Sands Road is subject to a 30mph speed limit.

Design Considerations

Pedestrian and Cycle Access

The Design/Access and Supporting Statement does not provide specific details about the pedestrian and cycle access arrangements for the site. The Application Form indicates that the existing provisions will be retained.

The site features a small gate opening onto the northern footway of Sands Road. Sands Road has footways on both sides of the carriageway, with a dropped kerb and tactile paving at the northern arm of its junction with Adelphi Lane. However, Adelphi Lane lacks footways for pedestrian access, and Sands Road does not have a safe pedestrian crossing.

An on-road cycle lane is present 100m east of the site along Eastern Esplanade which leads to Paignton Beach, starting at the B3201/Sands Road junction.

The Highway Authority is satisfied with maintaining the current pedestrian access arrangements, as the anticipated change in the number of trips is likely to be negligible.

Cycle Parking

As per Appendix F of the adopted Torbay Local Plan, it is recommended that HMOs provide at minimum one cycle parking space per bedroom, and that these parking spaces are secure and covered.

The Application Form mentions that the site currently does not have any cycle parking spaces. As part of this application, it is proposed to provide nine cycle spaces within the site. This proposal aligns with local planning standards, and the Highway Authority is satisfied with the cycle parking provisions. It is required that the proposed cycle parking should be secure and covered.

The proposed layout does not reflect the location of proposed cycle parking, it is required that the location of the cycle parking is included within the proposed layout plan.

Public Transport Access

The Department for Transport's Inclusive Mobility guide (2021) recommends that bus stops in residential areas are located within a 400-metre walking distance.

The nearest bus stop to the site is the Sands Road bus stop, located only 30 meters west of the site on Sands Road. The bus stop has flag and pole arrangements. Potential improvements to this bus stop may include the provision of sheltered bus stop with kassel kerbing.

Vehicular Access

The Application Form indicates that vehicular access will remain the same as the existing arrangement. Currently, vehicles access the site from Adelphi Lane, entering the parking area through a shared surface arrangement. There are no proposed changes to this access arrangement.

Car Parking

According to Appendix F of the adopted Torbay Local Plan, it is recommended that HMOs provide a minimum of one car parking space per two bedrooms. It is also recommended that up to 10% of the total allocation of car parking spaces should be dedicated and appropriately designed for disabled people and provide for safe, easy and direct movement for those with mobility difficulties.

The proposed layout indicates the provision of 5 car parking spaces within the site. However, the application form states that there are 6 existing car parking spaces that would be retained under the proposals. Clarification is sought on the number of car parking spaces.

The proposed parking provision is consistent with local planning standards, and the Highway Authority raises no objection to this. However, it is recommended to provide dedicated disabled parking bay within the site.

Refuse / Servicing / Emergency Access

The Application Form mentions that the existing arrangements for waste storage and collection will be retained. Torbay Council's waste storage guidance recommends that communal stores must be located no further than 25 meters from the nearest point of access for the refuse collection vehicle.

It is understood that refuse bins are located at the northwest corner of the site, close to Adelphi Lane. The Highway Authority is satisfied with the drag distance.

No details have been provided of how the site will be accessed by emergency services. Based on the existing site arrangement, it appears that in the event of an emergency, a fire appliance can access the front of the property from Sands Road and Adelphi Lane. The Planning Officer should consider whether a Fire Statement or Strategy is required for access to the rear of the building.

Conclusion

The Highway Authority has raised the following concerns regarding this application:

- The location of the cycle parking spaces, and their security could not be verified due to insufficient details. It is recommended to the Applicant provides these details in a revised layout clearly identifying where cycles would be stored. The type of storage should also be defined; and
- Clarification is sought on the number of car parking spaces. A dedicated and appropriately designed parking space for disabled people is recommended to be provided

Planning Policy -

Response dated 27/08/2024:

I refer to the above application for change of use of Seacroft Guest House 41 Sands Road to a sui-generis House in Multiple Occupation for YMCA Supported Housing. 41 Sands Road is the other half of the semi-detached 39-41 Sands Road, which is subject to a similar application P/2024/0374; although the applicant has asked for them to be considered separately. I have provided a more detailed policy response on 39 Sands Road, which has sought to support the use subject to a permission being personal to the YMCA or other Registered Provider providing housing for local young people. Many of the issues are common between 39 and 41, so I will try to avoid repetition. Although attached, the two applications do raise subtly different issues, particularly in that 41 Sands Road is serviced accommodation (Class C1) whereas no. 39 operates as flatlets subject to 10 -month occupancy.

An unrestricted HMO in this location would conflict with Policy PNP14 and PNP1 g) of the Neighbourhood Plan. There is also would also conflict with Policies TO1, TO2 and H4 of the Local Plan. The area is within the 10% most deprived LSOAs in the country, so an unregulated HMO is likely to conflict with Policies SS11 and H4 of the Local Plan. We need confirmation of the proposed use, and supervision arrangements, from the applicant, but I understand that it will provide a supported socially rented accommodation for young local people from the Torbay area. This would need to be conditioned to make it clear that any permission is not an un-restricted HMO.

It was useful to inspect the property on the 22 August and to discuss it with the applicant. The proposed use appears to have some aspects in common to co-living with some support, rather than what is commonly thought of as an HMO (although there is clearly some overlaps and grey-areas, between such sui-generis uses). The layout shows communal areas and a shared kitchen. I would rather that the description of development were amended to supported co-living, or similar, rather than HMO, to make it clear the nature and regulation of the proposed use; but am not seeking to delay the process.

Tourism Issues

The Seacroft Guest House is within the Paignton Neighbourhood Plan's Core Tourism Investment Area (CTIA) but outside the Torbay Local Plan's CTIA. Having visited the premises, it's clear that the owners have sought to provide a high quality of accommodation for tourists, and I note that the guest house has excellent on-line reviews. The location is very good with easy access to the Esplanade and beach. Because the accommodation is serviced, its loss does create a potential issue in terms of PNP14 of the Neighbourhood Plan and Policy TO2 of the Local Plan. No evidence to indicate that there is "no reasonable prospects of tourism use" has been submitted as required by Policy PNP14(b). On the face of it the site is in tourism use. It would be helpful to have evidence such as trading records etc. to support an application and the viability of the property as a guest house. I am aware that Planning Committee refused application p/2023/0318 at 21 Sands Road, which is further from the seafront than the current application; although this is a larger hotel (15 bedrooms) and the proposed client group was different to the current proposal.

However, the building has a limited number of letting rooms (this does not appear to have been specified in the planning application, but appears to be 8 bedrooms plus owner's accommodation). There is a guest dining area and outside seating area. All of the bedrooms are en-suite, although some of the en-suites are small later insertions. Although clearly well-run, the guest house does not provide any exceptional facilities. It remains a former Victorian house with the limitations that brings in relation to meeting modern hotel needs. The Torbay Destination Management Plan seeks a 2% reduction in serviced bedspaces by 2027, particularly where accommodation does not offer additional facilities. Much more modern purpose-built serviced accommodation is available in the Ibis and Mercure Hotels recently completed on the Esplanade.

Paragraph 6.1.2.16 of the Local Plan indicates that neglect or underinvestment will not, on their own, be sufficient reasons to grant planning permission away from tourism use. It is arguable that the reverse applies i.e. that the current owners have sought to maintain high standards should not count against them.

Deprivation, Regeneration and Community Investment Area Issues.

As set out in my comments on 39 Sands Road, the proposed nature of YMCA's use of the building would achieve multiple benefits in terms of securing affordable housing for local people, helping to provide opportunities for young people and helping close the gap between best and least well-off in Torbay. As such, a properly regulated use would score positively against Policies SS11 and H2 of the Local Plan. There would also be benefits in terms of Policy SC3 Education, Skills and Labour. Improving provision young people in receipt of services from Children's Services (to help them) prepare for adulthood is a specific priority in the Community and Corporate Plan 2023-43 (p7). The 2024 draft NPPF (paragraphs 63-64) has also increased the emphasis on providing social housing and for the needs of "looked after children". The proposal is dependent upon grant support, which is a local

finance consideration. As per 39-Sands Road, I consider that the provision of affordable housing for local young people to be the most important material consideration relating to the application. Note that that these benefits would accrue from the specific use proposed by the YMCA, and we need written details to confirm the management etc. arrangements that we discussed on site. An unregulated HMO use would be contrary to the development plan; so any consent should be restricted to use by the YMCA or similar Registered Provider.

Whilst there is a potential agglomeration issue (particularly in relation to Policy H4.4 of the Local Plan), I consider that these could be addressed by appropriate management conditions. The two building combined are not especially large, comprising a single semi-detached Victorian pair of townhouses, with what appears to be a combined total of 9 flatlets and 9 HMO rooms. The plans show storage areas on the upper floor, but having seen the site, these are too small/low for use as bedrooms.

It is a moot point whether the Presumption in Favour of Sustainable Development applies to HMO use, and there is a danger of over-complicating how much weight should be applied to the “tilted balance”. My understanding (which is not extensive) is that HMOs are usually counted as one dwelling. Co-living type uses may also be treated as providing some dwellings based on freeing up other housing stock. However, the proposal provides 9 “units” of social rented affordable accommodation, that will help meet the needs of looked after children. So, there is a case to say that the proposal, with appropriate conditioning, constitutes sustainable development and meets a pressing social need. This benefit is capable of carrying significant weight, even if the tilted balance at paragraph 11(d)(ii) is not engaged.

My comments in relation to flood risk, Sustainable Drainage, parking, Berry Head SAC, are also relevant to no. 41. I have suggested that increased provision of sustainable drainage (soft landscaping) would be supported, although no. 41 already has a garden area facing Sands Road. The store/shed would make a good cycle parking provision.

As noted, we do need some clarification from the applicant about the hotel’s trading position and the nature of the proposed use. But subject to receipt of this, I support the proposal from a policy point of view.

Response received 23/09/2024 following the submission of a planning statement:

Thank you for your updated email of 20th September 2024 in relation to the applications P/2024/0374 39 Sands Road, Paignton and P/2024/0529 41 Sands Road, Paignton. I note that the applicant has now submitted a management plan and a planning statement. I have previously commented on these applications on 27th August. The crux of my comments were that the but the nature of the proposal did throw up policy issues in relation to tourism, management and the nature of the

use. I will not revisit the policy assessment in my earlier comments, but noted that the introduction of an un-restricted HMO or unregulated very small flatlets would present a conflict with both the tourism policies (TO1 of the Local Plan, and PNP14 of the Paignton Neighbourhood Plan), as well as Policies SS11, DE3 and H4 of the Local Plan). However, I suggested that the use as described to us on our site visit was a sui generis operation to provide social rented supported accommodation for local young people, which would provide a significant social benefit.

It looks from the submitted City of Exeter Management Plan that no's 39 and 41 would be operated as an interconnected use. But I assume that the two applications remain separate? 41 would, strictly speaking be an HMO, although the term "supported accommodation" is also apposite. I note that the management plan refers to the residents having a local connection; this is likely to be important to the acceptability of the proposal and may need securing through condition or legal agreement.

I have read the Planning Statement by McMurdo Land and Planning. This focusses heavily on the Presumption in Favour of Sustainable Development. I agree that the Presumption applies to number 39. It is much more moot whether it applies to HMOs. The section of the PPG that the planning statement refers to relates to student accommodation (68-034-20190722). The council has not previously treated HMO rooms as individual dwellings with weight in the presumption. Whilst the "tilted balance" is likely to be applicable, I consider that there are other policy considerations that are more weighty in determining the current applications.

The Planning Statement does not really address the tourism issue in any detail. The Paignton Neighbourhood Plan remains part of the development plan and is the legal starting point for determining planning applications, along with the Local Plan. For non-strategic matters such as the boundary of the CTIA, the Neighbourhood Plan carries more weight than the Local Plan (paragraph 30 of the NPPF). The PNP is more than 5 years old and therefore "out of date" especially in relation to housing supply matters. But it is a matter for the decision maker (acting rationally) as to how much weight should be given to out of date policies. In this context, it would be very helpful to have more details about the impact of the proposal on tourism.

I note that the applicant's email has provided some details of falling profit and the general trend for falling demand of small guest houses. However, it also indicates a very seasonal operation of the guest house, and does not get into other matters such as additional facilities, size of the shower ensembles, unproductive floor areas, running costs etc. Nor does it assess the impact on the new hotels on The Esplanade on bookings etc. This falls somewhat short of demonstrating that there is "no reasonable prospect" of tourism use required by Policy PNP14(b). 39 and 41 Sands Road are located close to the seafront and a range of facilities. Notwithstanding this, the Destination Management Plan has identified an oversupply of small guest

houses, and a need to re-purpose holiday accommodation. I have covered this in more detail in my previous emails and consider that there would not be a policy objection to the loss of tourism. But the matter is finely balanced, and an element of tension with Policy PNP14 does exist, based on the evidence currently provided.

In my assessment the provision of socially rented supported accommodation for local young people is the most significant benefit from the scheme. The need for such accommodation is identified in the Corporate and Community Plan. Securing government funding for the scheme is a local finance consideration. I agree with the Planning Statement that this should carry a great deal of weight in the planning balance (irrespective of whether it's tilted or not). I did not see a reference to local training agreements with local employers (apologies if I missed it), but if provided this would also provide an additional benefit and counter any loss of employment issues.

I appreciate that the application does raise difficult policy matters. An unregulated HMO use would create "significant and demonstrable" policy conflicts. However, the precise nature of the proposal would have substantial public benefits including the provision of much needed affordable accommodation to assist young people. On that basis I would wish to support it from a policy perspective. The use will need to be conditioned (or subject to a S106 Agreement) covering the operation of the use as supported accommodation for young people by the YMCA in accordance with a management plan. It may be appropriate to grant a personal consent: Whilst another organisation may be able to run a facility along similar lines and therefore be acceptable; there are very specific management and support policies employed by the YMCA that are necessary to make the use acceptable in planning terms. The LPA would need to consider a different user on their own merits. This may also address the interconnectedness of the proposed uses of numbers 39 and 41 (i.e. it would be necessary for them to have the same operator).

Flooding issues are dealt with in my previous emails, and I note that Dave Stewart has not raised an objection. However, if approved a scheme of flood resilience and safe escape measures will need to be provided. I would welcome the addition of sustainable drainage as an element of this.

I hope that this is of assistance. The applications do raise some complex policy issues, particularly balancing the social benefits of supported social homes for young people with the tourism impact. I would wish to support the proposal because of its significant social benefit and the support it draws from the council's corporate policies.

Response received 25/09/2024:

Further to our discussion about the additional text in the draft NPPF on affordable housing. In my view the draft NPPF carries only limited weight at present. The

provision of affordable housing already carries very significant weight in the planning balance.

Torbay Council's Community and Corporate Plan 2023-43 Community and Corporate Plan - Torbay Council describes itself as "The golden thread" running through all the council's plans, policies, and operations. The Corporate and Community Plan makes several specific references to meeting the needs of children and young people. The second "Community and people" priority (p6) is "To keep children safe in their communities and provide safe environments for our young people to thrive in". The Plan also undertakes that all residents are supported to live independent, healthy, active lives and that young people in receipt of services from children's services are prepared for adulthood. The Council's Corporate Parenting Strategy Corporate Parenting Strategy - for consultation (undated) notes the council's ongoing support for care experienced young people up to the age of 25. Priority 5 of the strategy is to support children and care experienced young people to develop into independent, confident and responsible adults.

The Housing Strategy Housing Strategy 2023 to 2030 - Torbay Council notes that Torbay has five times the national average of children and young people in care or care experienced, with a 42% increase since 2011. It states that: "*There is also an urgent need to create housing stock that provides independent living and move-on accommodation options for our care experienced young people*". It undertakes work proactively and in partnership with partners such as Homes England and Registered Providers (etc.). It seeks to maximise opportunities to deliver affordable homes and to provide more homes to improve the outcomes for our care experienced leavers.

These corporate strategies are a material consideration and should be afforded significant weight as statements of the Council's corporate priorities. These informed my overall policy conclusion that the provision of supported social housing to young local people is the most important policy consideration in relation to the two Sands Road applications.

Divisional Director of Community and Customer Services -

Information has also been provided as an evidential document outlining the need in Torbay and reasons for youth homelessness.

The provision will assist in delivering a key element of the Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential to enable a working pathway were those young people that find themselves at point of homeless are prevented from doing so, and or are moved out of the Council emergency temporary accommodation. The public consultation feedback undertaken in August 2024, on the draft strategy also clearly feedback the impact that rough sleeping and homelessness has upon our wider communities.

The need in Torbay cannot be disputed, as the evidence from national data available for 2022/23 shows that Torbay continues to see a high proportion of households per thousand assessed as homeless, compared to the national average, with 15% of presentations being between 18 and 24 years old. Also, the grant funding by which this accommodation would be provided, is through a government initiative called SHAP (Single Homeless Accommodation Program). This grant program was by invite only around specific cohorts, one of which was homelessness related to young people. Therefore, the need and significance being recognised by Central Government. The conditions of the grant also came with funding to provide support at the accommodation.

Placements at the accommodation would be undertaken in partnership with the Council enabling full control over allocations with restrictions for local residents. I would also request that a management plan also be placed within any permissions providing detailed information on how the properties will be managed and hours of staff of site.

YMCA, are a recognised trusted national provider of accommodation and support for young people. This would also provide an initial footprint for wider working to address accommodation for young members of our communities in Torbay.

Police Designing Out Crime Officer -

The proposed development is situated within the Police Neighbourhood Beat of Roundham with Hyde which sees the highest demand for Police within Paignton and the second most demand when looking at the whole of Torbay. It is therefore requested that following conditions are in place.

- That the practices and principles of Secured by Design is followed where possible. By including the following. External Doors & Windows to meeting ADQ standards, access control system, mail delivery system & CCTV, please see below for more detail. This is requested in the interest of designing out crime, fear of crime and anti-social behaviour in line with policy DE1 of the Torbay Local Plan.

It is recommended that all doors leading to the private flats should meet the requirements of PAS: 24 2022. Where doors are not being replaced the locks should be replaced and upgraded if they do not meet the requirements of PAS:24.

Likewise, any external doors providing access into the building must also meet the minimum-security standards of PAS:24 2022, It is recommended that the door is fit for purpose under BS 6375. The door should be fitted with a self-closing and locking mechanism to prevent the door from being inadvertently left open.

All ground floor and easily accessible windows must also meet the requirements of PAS 24. Where these do not it is recommended that they are replaced with products which are tested and certificated to PAS:24:2022. They should also be fitted with

window restrictors to prevent reach in burglaries where the offender reaches through an open window and steals anything within reach.

An access control system is also recommended to be installed that can grant access to required areas when the valid card or key fob is presented to a proximity reader to the communal entrance door, it should have the ability to authorise and restrict access to certain times of the day of certain users. It must also be able to record and identify the location, user, type and date of every system event which must be stored and available for up to 30 days. I would not support the use of any trades persons or time release mechanism being installed to the communal entrance doors due to the evidence of anti-social behaviour and unauthorised access associated with these.

Where appropriate mail delivery systems are not installed to buildings containing multiple dwellings this can lead to crime problems associated with delivery of posts or parcels. It is therefore recommended a mail delivery system is installed.

It would be beneficial to consider installing a CCTV system which is essential in the prevention and detection of crime, particularly when considering, burglary offences and disputes. A clear passport to compliance document should be in place prior to installation to ensure that the system and each camera have a clear purpose and that the needs of the user are met. To search for a local accredited and approved CCTV installer please click on these links www.nsi.org.uk or www.ssaib.org .

Key things to consider with CCTV

- Cameras, wiring, recording and monitoring equipment should be secured.
- CCTV equipment should meet the BS62676 standard.
- CCTV should be designed in so its compatible with lighting.
- Coverage should include access control areas, all external entry/exit points, fire exits, internal shop floor and till areas.
- The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended for prosecution.
- CCTV systems must be registered with the Information Commissioners Office (IOC) and be compliant with guidelines in respect to General Data Protection Regulation (GDPR) and Human Rights legislation. Further information is available via www.ico.gov.uk
- For guidance on the use of CCTV images as legal evidence see also BS 7958:2015 CCTV Management and Operation Code of Practice.

Environmental Health –

No objections.

English Riviera BID –

Please note that the ERBID Company does not comment on individual planning applications.

Summary of Representations

At the time of writing a total of 5 letters of objection and 4 letters of support have been received in which the following matters were raised:

Objections:

- Area of tourism
- Impact on tourism
- Impact of HMO
- Sets precedent
- Planning history of area
- Contrary to Local Plan and Neighbourhood Plan
- Other properties for sale with no restrictions
- Area of deprivation
- Unsuitable location
- Combination of both proposals
- Attract wrong type of people
- Does not contribute to other local businesses within hospitality trade

Support:

- Initiative aligns with local planning and health and social care policies
- Essential support and opportunities for local youth
- Aligns with Local Plan
- Sustainable development
- Affordable housing
- Community wellbeing
- Housing needs
- Job opportunities
- Health and wellbeing
- Benefits to local economy
- Guesthouse only operates for 6 months of the year
- Conversion will maximise use
- Reputation of YMCA
- Number of existing accommodation beds and overstock in Paignton
- Bookings have decreased
- Recent hotel development/ no shortage of accommodation

Relevant Planning History

P/1985/2467 Use Basement Owners Accommodation. Approved 22/10/1985

P/1985/1706 Use Basement Owners Accommodation. Refused 30/07/1985

P/1982/1963 Extension. Approved 15/10/1982

P/1980/3473 Use As Guest House. Approved 02/02/1981

Planning Officer Assessment

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 key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

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

1. Principle of Development, Housing and Affordable Housing

The proposal is for the change of use of the building from guest house (C1 use) to a large HMO (Sui Generis) for YMCA supported housing. The application has come forward in conjunction with application P/2024/0374 for the attached semi-detached property; 39 Sands Road.

The property would be run by YMCA Exeter, which is a registered provider, as affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. The Management Plan confirms the accommodation is intended for young people who are moving on from Torbay's higher supported accommodation, foster placements and supported living arrangements. 9 single occupancy rooms with communal facilities are proposed where occupants will receive support relating to employment, meaningful occupation, training and education (EMOTE) and will engage in work placements, educational placements, volunteering or engagement within the service itself or social enterprise projects that the service develops. All young people will have named support workers, a personalised support plan, access to therapeutic services and counselling, regular groups, workshops and social, sporting and creative activities.

Young People will live in this 'Stage 2' accommodation whilst they engage in the EMOTE programme. Engagement in the programme is a requirement of being referred to the programme and a requirement within their excluded licence agreement for continued occupation. Young people will progress through the programme at differing speeds and in various routes. The general timeframe for Stage 2 accommodation is between 6 and 12 months, sometimes this extends to 18 months due to the need to access a particular type of move on accommodation, affordability or suitability of options for move on or the need to extend to avoid a person moving on prematurely before they are fully equipped to do so. For this reason, and as the availability of accommodation can differ between Local Authorities the maximum length of stay is set by the YMCA at 3 years.

The onsite staff team will be shared between the property and attached 39 Sands Road and will consist of 1 housing manager, 3 EMOTE programme coordinators, 5 housing support coordinators, 1 facilities coordinator and 1 facilities officer. 39 and 41 Sands Road will be staffed by a professional staff team led by a full-time Housing Manager. The Support Team will be based onsite from 9am to 10pm to provide tailored advice, guidance and individual sessions to residents and swift intervention into any occupancy related issues, and then an on-call cover from 10pm through to 9am. For the initial year of the project, staff will operate a waking night service. This means staff will most likely make use of a vacant room and then later in the year to operate from a communal space (in any of the properties being purchased). It is anticipated that if during the first year the project tolerates really well overnight, staff can leave at the end of the evening shift at 10-11pm and go home, but remain on call. As the project becomes established and the self-regulation of the resident group is proven, they will usually be based within a 15-minute travel radius of site. One staff member remains on-call throughout the evening with another staff member being on "backup" for the on-call staff member able to be contacted as required. Alongside this, a senior manager (normally the Housing Manager is contactable to advise in emergencies and a duty Safeguarding Lead Officer is also on call at any time throughout the night). In addition, Facilities and Building maintenance staff are on duty throughout the day and availability for emergency repair response is in place out of hours.

The Management Plan confirms the general timeline of a day for residents as:

Whilst the programme will develop based on the needs of the current cohort on the programme at the time, the general timeline of the day would look like, a morning motivational time leading into and through breakfast, travel to work and education placements, preparation and deployment at various social enterprise locations in Paignton. These activities will take up the majority of the morning and afternoon of each weekday. Responsive repairs and maintenance volunteering opportunities would take place on site during the

day. Some staff will remain based on site making arrangements for the service, organising new partnerships, recording and monitoring and other administrative duties.

In the late afternoon to evening there would be workshops either on site or as part of a community group off site and likely an evening social activity around food. At around 10pm, staff move from the project to a location nearby as a method of moving the houses into an end of day state and remain on call and able to monitor CCTV as required.

Weekends are less structured and more free time, however many weekends will include planned social activities, trips and occasional residential. The times are still part of the support framework and develop essential skills of independent living and personal growth alongside a bit of time away and some fun!

The proposal will result in 9 bedrooms with communal facilities including shared sitting/dining rooms and a conservatory (for use in conjunction with the occupiers of 39 Sands Road) and a kitchen and utility room.

There is a pressing need for homes in Torbay. The Housing and Economic Needs Assessment (2022) indicates a comparable level of need and that there are around 1600 households on the waiting list for housing. At April 2024, the Council could only demonstrate a housing land supply of about 2.69 year's supply of deliverable housing sites. This is a significant shortfall.

The draft consultation NPPF, although of limited weight, places further emphasis on the need for housing, securing affordable homes and the need for different groups in the community including looked after children.

Policy SS13 supports residential development in accordance with the Local Plan and Policies of the NPPF. The site is not allocated in the Local Plan or Neighbourhood Plan for housing.

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. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed given the proposal will result in the loss of a guesthouse and the formation of supported accommodation which includes 9 bedrooms with communal facilities. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by the National Planning Policy Framework (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; 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 8: This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a 5 year supply (or a 4 year supply), if applicable, as set out in paragraph 226 of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77 and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous 3 years.

The formation of the proposed supported accommodation is considered to carry limited weight given the proposal is for the formation of one HMO unit with 9 rooms.

The proposal would create a 9 bedroom HMO which would constitute affordable housing which is let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. The provision will assist in delivering a key element of the Council's Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential to enable a working pathway where those young people that find themselves at point of homeless are prevented from doing so, and or are moved out of the Council emergency temporary accommodation. The public consultation feedback undertaken in August 2024, on the draft strategy also clearly feedback the impact that rough sleeping and homelessness has upon our wider communities. The need in Torbay cannot be disputed, as the evidence from national data available for 2022/23 shows that Torbay continues to see a high proportion of households per thousand assessed as homeless, compared to the national average, with 15% of presentations being between 18 and 24 years old. Also, the grant funding by which this accommodation would be provided, is through a government initiative called SHAP (Single Homeless

Accommodation Program). This grant program was by invite only around specific cohorts, one of which was homelessness related to young people. Therefore, the need and significance being recognised by Central Government. The conditions of the grant also came with funding to provide support at the accommodation. Placements at the accommodation would be undertaken in partnership with the Council enabling full control over allocations with restrictions for local residents. Torbay Council's Community and Corporate Plan 2023-2043 describes itself as "The golden thread" running through all the Council's plans, policies, and operations. The Corporate and Community Plan makes several specific references to meeting the needs of children and young people. The second "Community and people" priority (page 6) is "To keep children safe in their communities and provide safe environments for our young people to thrive in". The Plan also undertakes that all residents are supported to live independent, healthy, active lives and that young people in receipt of services from children's services are prepared for adulthood. The Council's Corporate Parenting Strategy notes the Council's ongoing support for care experienced young people up to the age of 25. Priority 5 of the strategy is to support children and care experienced young people to develop into independent, confident and responsible adults.

The Housing Strategy 2023 to 2030 notes that Torbay has five times the national average of children and young people in care or care experienced, with a 42% increase since 2011. It states that: "There is also an urgent need to create housing stock that provides independent living and move-on accommodation options for our care experienced young people". It undertakes work proactively and in partnership with partners such as Homes England and Registered Providers (etc.) and seeks to maximise opportunities to deliver affordable homes and to provide more homes to improve the outcomes for our care experienced leavers.

These corporate strategies are a material consideration and should be afforded significant weight as statements of the Council's corporate priorities.

Given Torbay has a pressing need for affordable housing and its provision, especially for groups such as care leavers or other vulnerable people including the 18 to 24 year old demographic which this form of supported accommodation will cover, is considered to result in very substantial weight in the planning balance.

Policy H6 supports measures to help people live independently and to live active lives within the community.

Policy SS11 aims to improve the sustainability of existing communities in Torbay, enhance the quality of life for residents and, especially, to close the gap between the most and least disadvantaged neighbourhoods.

The application site falls within the top 10% deprived “local neighbourhoods” (lower super output area) in England in both the 2015 and 2019 indices. This is part of a wider deprivation issue in Torbay, arising principally from poor employment opportunities and low-income levels. However, the site is located within the top 10% most deprived Lower Super Output Areas in England for crime (risk of material and personal victimisation at a local level). As such Policy SS11 of the Local Plan is relevant. Details of management arrangements, and the nature of the operation and client groups are important to consideration of this matter. The supported accommodation will be occupied by local young people aged 18 to 25 years old on a temporary basis generally between 6 to 12 months but with a maximum length of 3 years, with a level of supervision by YMCA staff. Although 24/7 onsite staff is not proposed, the premises will be monitored by CCTV and residents would have access to support at all times.

The proposal is considered to meet many of the criteria in Policy SS11: Particularly SS11.2 “*Help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay*” and SS11.4 “*Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities*”. The Management Plan confirms:

Cluster rooms with a shared kitchen are a method to both trial a young person’s ability to live in a shared house (which would likely be the most cost-effective independent living option for them in the future) whilst also enabling young people to meet and match with possible future house/flat mates that they would feel comfortable to share with. The methods of living in a shared house, such as how bills are managed, how household essentials are purchased, expectations and personal standards on levels of cleaning, communication and socialisation are worked out in practice and can be taken forward into a longer-term shared housing situation.

The Management Plan provides certainty about the proposed use, client group and operation of the site and the HMO use provides an accommodation type which meets the needs of the future occupiers. This accommodation type is designed as stage 2 move on accommodation which provides a stepping stone for residents through the 4 stages of the YMCA’s pathway of supported accommodation. This move on accommodation is specifically designed as temporary accommodation which will directly help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay and promotes social inclusion and access to housing. The client group is local young people from Torbay. Given this results in a direct local benefit, this is recommended to be secured by condition.

The operation would provide support into local employment and training, in accordance with SS11.11 and provide people with access to local services in a highly sustainable location (SS11.12). The applicant has verbally indicated that they

would look to agree local training arrangements with the nearby hotels, which would be supported by Policy SC3 of the Local Plan.

The Management Plan considers security and the local community stating that:

CCTV cameras will be located on our site, both internal to the building and to externally to cover all aspects of the property. CCTV footage is encrypted and stored both locally for up to 365 days and on secure cloud servers for 30 days. The cameras operate a facial recognition system to assist us in making young people feel safe and for assisting the police with accurate and detailed footage of any incident that could occur.

Our aim is to assist the police and the local community to make these areas safer places to socialise and walk through at all times of the day and night, for both our own tenants and all those who live locally and use them.

The groups, activities and events that we will be delivering for those living at Sands Road and the future Stage 3 and 4 accommodation, will also be available to the local community. These will include wellbeing groups and activities, sporting activities, creative Arts and Music, IT groups and workshops, day trips and events. These will complement the many activities already happening in and around Paignton.

We have already, and will continue to engage well with local residents, community associations and business owners to see how we can contribute to the surrounding area.

The applicants have also verbally confirmed that their operation in Sidwell Street, Exeter has helped reduce and prevent crime and fear of crime. The measures outlined are considered to help to reduce and prevent crime, whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict (SS11.5).

The proposed use, including the day to day operation of the site which will feature occupants undertaking offsite activities such as employment or education, is considered to have a positive impact on the Community Investment Area with the use blending in with other residential uses. The proposal is therefore considered to be a compatible use to the main tourism area.

Policy H4 of the Local Plan states that:

Applications for new buildings or sub-division of existing buildings into non-self-contained residential accommodation (HMOs) will only be permitted where the following criteria are met:

1. The property is located within easy reach of public transport and community facilities;
2. An acceptable standard of residential accommodation can be provided;
3. The scale and nature of the use would not harm neighbourhood amenity, for example by way of noise, general disturbance, litter, on-street parking or impact on visual amenity;
4. The proposal would not lead to an over-concentration of similar uses that could exacerbate existing social and economic deprivation or lead to a community becoming imbalanced;
5. The proposal would not adversely affect the character of holiday areas, particularly Core Tourism Investment Areas;
6. Adequate storage facilities can be provided for cycles, waste and recycling collection; and
7. There is supervision by a resident owner or manager, or an appropriate alternative level of supervision. The ongoing management will be secured through condition or s106 Planning Obligations where appropriate.

The property is considered to be within easy reach of public transport and community facilities. An acceptable form of residential accommodation is provided for the form of development proposed. The scale and nature of the use, which includes 9 single occupancy rooms, even when taken in conjunction with the 9 occupants proposed via the concurrent application at no.39 are not considered to harm neighbourhood amenity and no objection has been raised by the Police Designing Out Crime Officer, nor the Council's Senior Environmental Health Officer.

The Council's HMO list (updated June 2024) indicates that the nearest HMO is Park Lodge Hotel 16-18 Adelphi Road. In the wider area, there are the following HMO's: Hunters Lodge, 10 Roundham Road; Sea Spray 1 Beach Road; Seahaven Hotel 2 Beach Road; Park View Guest House 19 Garfield Road; South Lodge 29 Garfield Road and The Beach House 39 Garfield Road. Whilst there are HMO's in the wider area and one located on the adjacent road, the addition of the application site as an HMO use of sought, is not considered to give rise to an overconcentration in the area. The Management Plan sets out the clear operation and supervision of the site and the proposed use is not considered to result in an adverse impact on the character of the holiday area. Adequate cycle storage and waste and recycling storage can be provided within the site.

As such the proposal is considered to accord with Policy H4 of the Local Plan.

Overall, the proposal will result in an HMO run as affordable housing, let at social rents and operated as supported accommodation which targets a key demographic with a high proportion of households per thousand assessed as homeless. The proposed use is considered to contribute to improving the sustainability of existing

and new communities within Torbay, and especially the way in which it closes the gap between the most and least disadvantaged neighbourhoods and the use is considered compatible with the surrounding mixture of tourist accommodation and residential dwellings. As such the principle of the development is considered to accord with Policies SS13, SS11, H1, H4 and H6 of the Torbay Local Plan.

2. Impact on Tourism

Policies TO1 and TO2 of the Local Plan support the tourism sector. Policy TO1 supports the retention of tourist accommodation in sustainable locations with a focus on the Core Tourism Investment Areas (CTIAs). The site is not within the CTIA allocation of the Local Plan. Policy TO2 states that outside CTIAs the change of use of holiday accommodation will be allowed where the holiday character of the area and range of facilities and accommodation offered are not undermined and one or more of the following apply:

- The site is of limited significance in term of its holiday setting, views and 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 Policy goes on to say that proposals for small apartments or HMO's will not be permitted where they would conflict with the tourism character and offer of the Bay.

The proposal is for an HMO however the proposed use, which is not that of a traditional HMO, but one of supported accommodation, is not considered to conflict with the tourism character and offer of the Bay given the details contained within the Management Plan.

41 Sands Road is very well located for tourism, within easy walk of the beach, Paignton Harbour and a range of other attractions and provides high quality accommodation, albeit with small private bathroom facilities. The two most recent trip advisor reviews from June 2024 both include 5* reviews with many similar reviews posted within recent years.

The supporting text for Policy TO2 advises that the 'Turning the Tide for Torbay' Tourism Strategy (2009) indicates that, due to a change in the demand for tourism facilities, an oversupply of small and outmoded accommodation will be reduced. The English Riviera Destination Management Plan seeks a reduction in the stock of redundant accommodation, although it sets no specific target for holiday apartments. However, the clear direction of the Local Plan and Destination Management Plan is to improve overall quality whilst allowing a managed decline in

numbers. There has been significant recent expansion in modern purpose built accommodation close to the application site. This includes the 119 room Ibis Styles, and 161 bedroom Mercure on the Esplanade, as well as proposed refurbishment of The Redcliff Hotel and construction of a hotel at Livermead. These mean that there is a good supply of modern purpose-built accommodation; much of it in even better holiday locations than 41 Sands Road, and which offer more modern accommodation and better facilities. The guesthouse is located within a tourist location which does not front the seafront, thereby likely providing a cheaper alternative holiday option.

The application submission confirms that 41 Sands Road was first marketed for sale on the 6th March 2024 and received one viewing by the YMCA whose offer was accepted on the 8th April 2024.

On that basis of the above, namely the quality of the accommodation, it is considered that the loss of the guesthouse would detract from the range of facilities available in Torbay. Sands Road features a mixture of residential and holiday accommodation. The change of use of the property to supported accommodation is however not considered to undermine the holiday character of the area. The proposal is therefore considered to be contrary to point 1 of Policy TO2 of the Local Plan.

Point 2 of Policy TO2 of the Local Plan requires that one or more of the points noted apply. In this instance the site is located within a holiday setting and has a clear relationship with the existing tourist facilities in the area. The application has been supported by a written statement which tries to demonstrate that there is no reasonable prospect of the site being used for tourism or related purposes. Evidence includes the following commentary:

Decline in Bed & Breakfast popularity – there has been a noticeable decline in the popularity of B&Bs in Torbay. This is partly due to changing consumer preferences, with more visitors opting for branded budget hotels and alternative accommodations like Airbnb. Typical trading figures are highlighted below for the last three years, which demonstrate that there has been no sustained bounce-back post COVID due to package holidays offering highly discounted All-Inclusive rates – this has resulted in it being cheaper to go aboard on holiday than it is for families to stay in the UK. Furthermore and importantly in terms of direct competition for value-for-money, the branded hotels locally offer discounts which the smaller and traditional B&Bs cannot compete with. Additionally, there is no winter trading as there is not enough custom during this period, and the smaller guest houses now only trade from May to September.

On the trading figures 2020/2023 – in previous years prior to 2021 – profit was averaging about £32,474 ... this then dropped in Year 2021 by minus 13% to £28,252 (£32,475 – 13% = £28,252) ... then in 2022 profit dropped by a massive minus 43% (£28,252 – 42.955% = £16,116) ... and then in 2023 a further drop of minus 15.5% (£16,116 – 15.41% = £13,632). Minus 58% from 2020 to 2023. [All percentages rounded up or down.]

Reduction in Bed Spaces – the overall quantity of serviced accommodation bed spaces in Torbay has reduced by around 15% between 2007 and mid-2019. This reduction is a result of traditional B&B owners not having the revenue, trade or capital to update services and facilities due to changing habits and behaviours, with customers now wanting a more modern and sustainable stay. New trends and customer preferences include a buy-in for low-cost modern hotels which traditional B&Bs cannot compete with in terms of value and pricing. This is demonstrated across Paignton since 2023 with the Fragrance Group purchasing and opening new modern popular hotels.

Quality and Modern Expectations – feedback from surveys and events indicates a shortage of accommodation that meets modern expectations, and this has led to a decline in business trips and missed opportunities for conference and event hosting.

Impact on Business / Economic Impact – the decline in traditional B&Bs and the shift towards budget hotels and alternative accommodations have economic implications, including reduced spending in local businesses that traditionally benefit from B&B guests.

The properties comprising 39 and 41 Sands Road are of limited significance in terms of their holiday settings, views and facilities, and there are no reasonable, viable future prospects for these two properties continuing to be used as tourism accommodation, in the short or long-terms.

Sands Road is within fairly easy walking distance from the seafront, but it is somewhat removed from Paignton's key tourism areas. The properties are small, and whilst there are holiday-let and guest house type facilities in both, these facilities no longer meet the expectations of tourists and visitors to Paignton when compared to the far more popular and modern overnight, short and long-stay 'branded' hotels actually on the seafront, and which of course represent far better value for money.

In 2023 and since, 282 new bedroom spaces have opened at the new Ibis and Mercure Hotels on the seafront, plus the refurbishment of the Esplanade Hotel, and more recently with the Fragrance Group having purchased the Inn-on-the-Green for a further hotel development, all of which will no doubt

adversely affect the future of the traditional guest house and B&B trade. It is also understood that the Fragrance Group will reopen the Corbyn Head Hotel in Torquay with 152 bedroom spaces, as soon as Spring 2025.

The Destination Management Plan 2022 to 2030 in (6) above identifies the need to reduce the stock of serviced accommodation by 2% by 2027, with the need to reduce redundant stock. This indicates that older, formerly residential properties in use as small hotels and guest houses should be allowed to revert back to residential use, as holiday accommodation is replaced by modern purpose built hotels.

It has been said that the Sands Road area is of relatively limited significance in terms of the holiday setting, and a need has been identified to reduce the older style guest and visitor type accommodation offered, and particularly where new modern hotel accommodation in more central locations has recently been opened.

Given the details submitted in relation to the net profit, the decline in bed and breakfast popularity and modern expectations, it is reasonable to consider that it is unlikely that there is a reasonable prospect of the site being used for tourism in the future although the evidence and commentary provided is not considered to provide outright confirmation that there is no reasonable prospect of a continuing tourist use particularly given the short marketing history.

The last point within TO2(2) is that *the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities*. The proposal is considered to meet this point. As noted earlier in this report, the proposal results in affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. This targets a key demographic with a high proportion of households per thousand assessed as homeless. This results in a strong benefit which is considered to outweigh the loss of the holiday accommodation. Given the proposal meets this point, the proposal is considered to accord with point 2 of Policy TO2 of the Local Plan.

Although outside the Local Plan Core Tourism Investment Area allocation, the site is within the Paignton Neighbourhood Plan Core Tourism Investment Area as such Paignton Neighbourhood Plan Policy PNP14 is relevant. This policy states that:

- a) Houses in Multiple Occupation known as HMO's will not be supported within the Core Tourism Investment Area in accordance with Policy PNP1(f);
- b) Within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there

is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function, and;

c) Applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area. Evidence of neglect of properties will not be a reason supported for change of use of holiday accommodation that could otherwise be used for tourism purposes.

The proposed use is an HMO of sought, however the specific use would be for supported housing rather than an unrestricted HMO use. The proposal is still however contrary to criterion a) of Policy PNP14.

The application is supported by a Management Plan which provides an argument as to why the applicant considers that the development proposed would not detract from the areas function. Given the details provided, including how tenancies and anti-social behaviour will be managed, security and the local community, and the confirmation of the likely day to day operation of the site, it is considered that the change proposed would support and not detract from the area's function. As noted above, given the details submitted in relation to the net profit, the decline in bed and breakfast popularity and modern expectations, it is reasonable to consider that it is unlikely that there is a reasonable prospect of the site being used for tourism in the future although the evidence and commentary provided is not considered to provide outright confirmation that there is no reasonable prospect of a continuing tourist use particularly given the short marketing history. The proposal therefore fails to pass criterion b) of Policy PNP14 on this basis.

The proposal accords with criterion c) given the intention to remove signage relating to the tourism use. There are no unsightly features or restoration required to the building given its visual appearance from public vantage points.

Overall, the proposal is considered to be contrary to Policy TO2 of the Local Plan and Policy PNP14 of the Neighbourhood Plan.

3. Design, Visual Impact and Heritage

Paragraph 131 of the National Planning Policy Framework (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. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning

documents. 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 SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them.

Policy PNP1(c) of the Paignton Neighbourhood Plan requires development to be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy PNP14 of the Paignton Neighbourhood Plan states that applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area.

The site is located adjacent to the Roundham and Paignton Harbour Conservation Area. Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) sets out the general duty as respects Conservation Areas, which requires Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

The proposed plans detail no external changes to the building. The Management Plan confirms that the proposal includes the removal of hotel signage. A planning condition requiring the removal of the signage prior to the first occupation as supported accommodation is recommended to secure this change.

A supporting statement has confirmed that the existing hard and soft landscaping in the front garden area will be maintained, more or less as it is now, with the front garden laid out and planted as you would expect for any domestic setting, rather than commercially, to ensure the garden areas are appealing and well-maintained. Any landscaping and maintenance will be carried out by the YMCA's Term Service Contractors.

The proposal would not result in any unacceptable harm to the character or visual amenities of the locality and will preserve the character and appearance of the adjacent Conservation Area and is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, Policy PNP1(c) and Policy PNP14 of the Neighbourhood Plan, and the guidance contained in the NPPF.

4. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity for future and neighbouring occupiers.

Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal protect residential amenity in terms of noise, air, or light pollution.

Future occupants

The proposal will result in a 9 bedroom HMO with communal facilities including shared sitting/dining rooms and a conservatory (for use in conjunction with the occupiers of 39 Sands Road) and a kitchen and utility room. Each bedroom will be single occupancy resulting in a maximum occupancy of 9 individuals.

The Management Plan provides further confirmation on the intended use:

Whilst the planning applications for these properties are submitted separately due to their current status, the desire and management of the building will be that they operate as a single project. This will enable the more effective use of 41 Sands Road's communal spaces for the residents of 39 Sands Road. Many of the group support work, workshops and activities will be based on site and so the utilisation of these spaces will enable us to work in a way that best suits the delivery of engagement work, which for example, often involves eating and socialising together.

There will still remain a sense of separation for the residents, as to which house they occupy and this will be particularly in relation to their own shared kitchens and separate laundry rooms for example.

Each bedroom will feature a good quality light and outlook and with shared facilities which are considered to be of a good quality. Overall the quality of accommodation for future occupiers is considered to be acceptable.

It is considered appropriate to secure the use via a personal consent to the YMCA given the management arrangements and future occupants detailed are considered to result in a unique situation which has been demonstrated as acceptable. A condition limiting the occupancy and use to 9 individuals within the supported living HMO is also recommended given the size of the units are only appropriate for single occupancy.

The site is within a highly sustainable location being within walking distance of the town centre, transport links, public gardens and the beach.

Neighbouring occupants

The proposal involves no alterations to the property other than the removal of signage.

As detailed earlier in the report, the Support Team will be based onsite from 9am to 10pm to provide tailored advice, guidance and individual sessions to residents and swift intervention into any occupancy related issues, and then an on-call cover from 10pm through to 9am. For the initial year of the project, staff will operate a waking night service. This means staff will most likely make use of a vacant room and then later in the year to operate from a communal space (in any of the properties being purchased). It is anticipated that if during the first year the project tolerates really well overnight, staff can leave at the end of the evening shift at 10-11pm and go home, but remain on call. As the project becomes established and the self-regulation of the resident group is proven, they will usually be based within a 15-minute travel radius of site. One staff member remains on-call throughout the evening with another staff member being on “backup” for the on-call staff member able to be contacted as required. Alongside this, a senior manager (normally the Housing Manager is contactable to advise in emergencies and a duty Safeguarding Lead Officer is also on call at any time throughout the night).

The Police Designing Out Crime Officer has not raised an objection to the application but has provided suggestions to minimise risks. The Management Plan is considered to provide acceptable detail of the intended operation which will be secured by a planning condition. This includes details of how anti-social behaviour will be dealt with alongside tenancy support which will aim to avoid any disruption to those within the service and those living in and around the area. This is considered to satisfactorily address amenity concerns which have been raised relating to the proposed use.

Policy SS11 of the Local Plan states that development proposals will be assessed as to whether they can promote social inclusion and seek to eliminate exclusion based on access to housing, health, education, recreation and other facilities. The proposal would provide affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay which is greatly required in Torbay and it is therefore considered that it would help to maintain a mixed and balanced community within the area and would provide a facility to those disadvantaged within Torbay.

Subject to the recommended conditions, the proposal is considered to be in accordance with Policies DE3 and SS11 of the Local Plan and PNP1(c) of the Paignton Neighbourhood Plan.

5. Access, Movement and Parking

Policy TA3 and Appendix F of the Local Plan states that HMO's should be provided with 1 on-site parking spaces per two bedrooms, 1 cycle storage space per bedroom, and provisions for the storage of refuse bins and recycling boxes.

The application is for the conversion of the guesthouse to a 9 bedroom supported living HMO. There are six existing car parking spaces on the site which are to be retained. These spaces are to be unallocated. The applicant had advised that, in practise, future occupiers are unlikely to own cars.

The Council's Highway Engineer has noted that there are no changes to the current parking provisions at the site and there is no objection. It is recommended that a disabled space is provided. Given the intended use, which is not that of a traditional HMO, and the likelihood that future occupiers will not own a car, this is not considered to be necessary.

Appendix F of the Torbay Local Plan expects storage space to be provided for at least 1 cycle per bedroom, therefore, the proposed development should allow provision for the storage of 9 cycle spaces within the site. The Management Plan confirms the intention to provide a secure bike shelter with interior lighting and full CCTV coverage within the site with the capacity to store both staff and resident bikes. Residents are assisted with the provision of bike locks and other methods of keeping their bikes and belongings secure as part of encouraging sustainable transport. Details of the proposed covered and secure cycle storage can be secured by condition, and this is recommended.

Subject to conditions to secure cycle storage and to ensure that the car parking spaces are retained and kept available for use for parking purposes, the proposal is considered to be in accordance with Policies TA2, TA3 and Appendix F of the Torbay Local Plan and Policies PNP1 (d) and PNP1 (h) of the Paignton Neighbourhood Plan.

6. 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 PNP1 (c) of the Paignton Neighbourhood Plan encourages development proposals to retain existing natural features and features of biodiversity value on site, and to enhance biodiversity where possible.

The application is not liable for Biodiversity Net Gain (BNG) due to the de minimis exemption.

The application site is occupied and not in an area identified as likely to house protected species. The proposed development is for change of use and does not involve works to the roofs. The presence of protected species is unlikely. However, an informative advising a precautionary approach can be imposed on the planning decision.

The proposal is therefore considered to be in accordance with Policy NC1 and Policy PNP1 (c) of the Paignton Neighbourhood Plan.

7. Drainage and Flood Risk

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) requires developments to comply with all relevant drainage and flood risk policy.

The site is located within Flood zone 2 and 3 and a critical drainage area. The application has been supported by a site specific flood risk assessment.

The Councils Drainage Engineer has reviewed this document and has noted that existing flats are located on the ground floor and basement of this property and no new flats are being proposed on the ground floor or basement of the development. Following conversion, residents must have access to upper floor levels within the building should a flood event occur. Providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, the proposal is acceptable and would accord with Policy ER1 of the Local Plan.

The proposed development would also not result in an increase in the impermeable area on the site.

The proposals are therefore not considered to present any material changes in terms of flood risk. A planning condition securing the flood mitigation measures identified within the site specific flood risk assessment and to ensure safe refuge for the basement and ground floor occupiers is recommended in line with the recommendation of the Drainage Engineer.

The proposal is therefore deemed acceptable in terms of its impact on drainage and flood risk and is considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

8. Waste

Policy W1 of the Torbay Local Plan requires as a minimum that all developments make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated by a development. PNP1(d) of the Paignton Neighbourhood Plan requires space to be provided for solid waste storage within the curtilage of a site.

The management plan confirms that “YMCA Exeter are committed to shaping environmentally conscious communities as detailed in our Environmental Policy and we ensure all of our tenants receive clear instructions and procedures to make

recycling simple and their first choice. Tenants are responsible for taking out their own waste and YMCA staff will be responsible for placing the bins at the kerb side on collection days.” The Council’s Highway Engineer has confirmed that it is understood that refuse bins are located at the southwest corner of the site, close to Sands Road and the Highway Authority is satisfied with the drag distance.

A planning condition securing adequate waste and recycling facilities is recommended.

The proposals therefore conform with the requirements of Policy W1 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

9. Designing Out Crime

Policy SS11 of the Torbay Local Plan requires development to help 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 Paignton Neighbourhood Plan requires all developments to show how crime and fear of crime has been taken into account.

The Police Designing Out Crime Officer has raised no objections to the proposed development which includes the installation of CCTV at the premises however they do recommend a condition requiring the principles and practices of secured by design will be followed. This will be secured by condition. The proposals are considered to meet the requirements of Policy SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

10. Low Carbon Development

Policy SS14 requires development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials.

Policy ES1 seeks to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited.

Policy PNP1(f) of the Paignton Neighbourhood Plan outlines that new development, where appropriate and subject to viability, should undertake sustainable construction and water management technologies.

The proposed conversion of the building will utilise the existing footprint and internal layout.

The proposed development is therefore considered to meet the requirements of Policies SS14 and ES1 of the Torbay Local Plan and PNP1(f) of the Paignton 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

Housing development is recognised as an important driver of economic growth and there would be some minor economic benefits to the construction industry from the proposed development. Once the HMO is occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

The proposal would result in the loss of a guesthouse and it has not been demonstrated that there is no reasonable prospect of continuing use for tourism purposes.

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

The Social Role

The principal social benefit of the proposed development would be the provision of additional supported accommodation of an affordable nature which provides a specialist and vital service for local residents of Torbay within a key demographic at risk of homelessness. This would provide a clear social benefit which weighs very strongly in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be relevant to the proposed development are impacts on the heritage, streetscape, ecology, biodiversity and surface and foul water drainage. These matters have been considered in detail above. The proposed development is in a sustainable location with a range of public transportation links. It is considered to be a low-impact. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

Human Rights and Equalities Issues Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the

applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance. Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106 – Not applicable

CIL - Not applicable

Funding – the proposed use is subject to Homes England & Department of Levelling Up, Homes and Communities 'Single Homeless Accommodation Programme' (SHAP) Funding obtained by a partnership of Torbay Council and YMCA Exeter.

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.

BNG

The application is not liable for Biodiversity Net Gain (BNG) due to the de minimis exemption.

Proactive Working

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

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

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

Development Plans often contain policies that pull in different directions and it is sometimes difficult to come to a view whether a proposal is in accordance with the

Development Plan when “taken as a whole”. Whilst the proposal is supported by policies in the Local Plan that seek to boost housing supply, affordable housing and sustainable communities, there are conflicts with the loss of tourism accommodation within a designated core tourism investment area. The proposal is therefore not in accordance with the Development Plan.

As noted above, the Council has less than 5 years housing land supply and on this basis the development plan must be “deemed” to be out of date. At 2.69 years supply, the shortfall is serious and must be given significant weight in the planning balance. However, the proposal is for only one HMO unit, which reduces the weight that should be given to the proposal, and this weight is considered to be limited. Out of date policies can still carry weight in the planning balance, but in practice attention shifts to other material considerations, especially the Presumption in Favour of Sustainable Development which is set out in paragraph 11(d) of the NPPF.

It must therefore be considered if any adverse impacts of approving the application would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Having regard to the above assessment of the proposed development, the proposal will result in the loss of tourist accommodation within a designated core tourism investment area. It has not been outright demonstrated that there is no reasonable prospect of continuing use for tourism purposes although a level of justification has been provided. The proposal would also result in the formation of an HMO within a core tourism investment area. However, the proposal results in housing development, when the Council cannot demonstrate a 5 year housing land supply and the proposed use of supported accommodation of an affordable nature which provides a specialist and vital service for local residents of Torbay within a key demographic at risk of homelessness provides a clear social benefit which weighs very strongly in favour of the development.

The development is acceptable in terms of all other material considerations.

The proposal is considered to be very finely balanced, however it is considered that overall the benefits associated with the proposed development are considered to outweigh the loss of the tourist accommodation within the core tourism investment area and the formation of an HMO. As such the proposal is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval: Subject to;

- The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;
- 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:

1. Removal of Signage

A scheme for the removal of holiday signage within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development hereby approved.

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012-2030 and Policies PNP1(c) and PNP14 of the Paignton Neighbourhood Plan.

2. Cycle Storage Details

Prior to the first occupation of the development hereby approved, details of cycle storage (secure and weatherproof) for 9 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be installed in accordance with approved details prior to the first occupation of the development and maintained for the lifetime of the development.

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

3. Refuse and Recycling

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

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

4. Crime Prevention Plan

Prior to the first occupation of the development hereby approved, a Crime Prevention Plan shall have been submitted to and approved in writing by the Local Planning Authority. The submitted Crime Prevention Plan shall detail crime prevention

measures for the site, including access control, how external doors and windows will be secured, how private rooms will be secured, details of CCTV, and what facility there will be for the receipt of mail delivered to the property. The use shall at all times operate in full accordance with the details of the Crime Prevention Plan.

Reason: To ensure safety and security for residents of the property and of neighbouring properties, and in accordance with Policies DE1, H4 and SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

5. Use

The sui generis supported housing HMO accommodation hereby approved shall:

- a) Only be used to accommodate residents who are already resident within the administrative area of Torbay Council
- b) Only be operated by YMCA Exeter for the approved use
- c) Serve a maximum of 9 residents at any one time in single occupancy rooms

When the premises cease to be used by YMCA Exeter for the approved use, the use hereby permitted shall cease and the property shall return to use as a guesthouse with owner's accommodation.

Reason: In the interests of providing a service to address local needs and providing an acceptable residential environment in accordance with Policies H1, DE3 and SS11 of the Torbay Local Plan 2012-2030. The site is in an area where a change in either the operator or the type of use may lead to detrimental effects on the area. In the interests of residential amenity in the area and to ensure that the operation of the site accords with Policy DE3 of the Torbay Local Plan 2012-2030. Any variation from the provider of services must therefore have the express approval of the Local Planning Authority.

6. Parking

The existing car parking spaces on the site, shall be retained and provided for the free use of occupants and visitors to the site prior to its first occupation for the use hereby permitted.

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

7. Flood Mitigation

The development shall be carried out in accordance with the submitted flood risk assessment (Ref.:1777, dated 18th July 2024) and the mitigation measures detailed within section 4, including allowing access to upper floor levels within the building should a flood event occur.

These mitigation measures shall be fully implemented prior to first occupation of the development hereby approved. The measures shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In the interest of flood risk safety in accordance with Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance of the NPPF.

8. Management Plan

The development hereby approved shall be operated and occupied in strict accordance with the approved Management Plan (received 02.10.2024) at all times.

Reason: In the interests of providing a service that addresses an identified housing need and in the interests of residential amenity in the area and to ensure the management of the site accords with Policy DE3 and SS11 of the Torbay Local Plan 2012-2030.

Torbay Local Plan

SS13 - Five year housing land supply

SS10 – Conservation and the historic environment

SS12 – Housing

SS14 – Low carbon development and adaption to climate change

SDP1 – Paignton

SS11 - Sustainable communities strategy

H1 - Applications for new homes

H2 – Affordable housing

H4 – Houses in multiple occupation (HMOs)

H6 - Housing for people in need of care

DE1 – Design

DE3 - Development amenity

ES1 – Energy

ER1 - Flood risk

ER2 – Water management

SC1 – Healthy bay

TA2 - Development access

TA3 - Parking requirements

NC1 - Biodiversity and geodiversity

W1 – Waste hierarchy

TO1 –Tourism, events and culture

TO2 – Change of use to tourism accommodation and facilities

Paignton Neighbourhood Plan

PNP1 (c) – Design Principles

PNP1 (d) – Residential Development

PNP1 (f) – Towards a sustainable low carbon energy efficient economy

PNP1 (g) – Designing out crime

PNP1 (h) – Sustainable Transport

PNP1 (i) – Surface Water

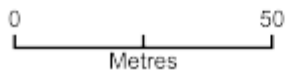
PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area

TORBAY COUNCIL

Application Site Address	39 Sands Road Paignton TQ4 6EG
Proposal	Temporary supported accommodation for the YMCA (sui generis use)
Application Number	P/2024/0374
Applicant	City of Exeter YMCA
Agent	Mr Andrew Farrell
Date Application Valid	11/07/2024
Decision Due date	05/09/2024
Extension of Time Date	18/10/2024
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>Section 106 – A S106 to tie the use of 39 Sands Road to the use of 41 Sands Road given the use of 39 is reliant on the use of 41 proposed via application P/2024/0529.</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> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by the Divisional Director – Planning,

	Housing & Climate Change
Planning Case Officer	Verity Clark

Location Plan



Site Details

The site is 39 Sands Road, Paignton which is a semi-detached property in use as 8 holiday apartments with owner's accommodation known as Holly-Lets Apartments. The self-contained accommodation is spread over four floors and is restricted to owner's accommodation associated with the holiday use and occupancy of the holiday units to between 15th March and 15th January only by a former planning application (P/1988/2336).

The south of the site benefits from a driveway for 7 cars with two separate vehicular access points onto Sands Road. Within the site are two separate patio garden areas.

The site is within a Community Investment Area and is within the Paignton Neighbourhood Plan Core Tourism Investment Area, but is outside of the Local Plan Core Tourism Investment Area allocation.

The site is located within Flood Zone 2 and 3 and a critical drainage area.

The Roundham and Paignton Harbour Conservation Area is located to the south of the site with the boundary starting in the middle of Sands Road.

Surrounding uses are a mix of residential and holiday accommodation.

Description of Development

Full planning permission is sought for the change of use of the building from holiday apartments to temporary supported accommodation for the YMCA (sui generis use). The application has come forward in conjunction with application P/2024/0529 for the attached semi-detached property; 41 Sands Road.

The proposal will result in 5 self-contained units of accommodation which feature kitchens/living rooms, bathrooms and bedrooms (flats 1, 4, 7, 8 and 9). 3 cluster bedrooms are proposed (for use in conjunction with the proposed facilities at 41 Sands Road) which feature a bedroom and bathroom (flats 2, 5 and 6) alongside 1 nightstop/crashpad room (flat 3). The proposal also features a communal laundry room for all units and a cluster kitchen for flats 2, 5 and 6.

No external changes are proposed to the building however it has been confirmed that signage relating to the holiday use will be removed. The vehicular access will be unchanged and will continue to be via Sands Road.

The property would be run by YMCA Exeter, which is a registered provider, as affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. 9 single occupancy supported 'flats' are proposed where occupants will receive support relating to employment, meaningful occupation, training and education (EMOTE) and will engage in work placements, educational placements, volunteering or engagement within the service itself or social enterprise projects that the service develops. All young people will have named support workers, a personalised support plan, access to therapeutic services and counselling, regular groups, workshops and social, sporting and creative activities.

Young People will live in this 'Stage 2' move on accommodation whilst they engage in the EMOTE programme. Engagement in the programme is a requirement of being referred to the programme and a requirement within their excluded licence agreement for continued occupation. Young people will progress through the programme at differing speeds and in various routes. The general timeframe for Stage 2 accommodation is between 6 and 12 months, sometimes this extends to 18 months due to the need to access a particular type of move on accommodation, affordability or suitability of options for move on or the need to extend to avoid a person moving on prematurely before they are fully equipped to do so. For this reason, and as the availability of accommodation can differ between Local Authorities, the maximum length of stay is set at 3 years.

Onsite staffing will be shared between the application site and adjacent 41 Sands Road with staff present between 9am to 10pm after which staffing provision remains on call.

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation document
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Policy Guidance (PPG)
- Roundham and Paignton Harbour Conservation Area Appraisal
- Healthy Torbay SPD
- Torbay Council's Community and Corporate Plan 2023-2043
- Torbay Council's Corporate Parenting Strategy draft consultation document
- Torbay Council's Housing Strategy 2023 to 2030
- Homelessness and Rough Sleeping Strategy 2020-2025 draft consultation document
- English Riviera Destination Management Plan 2022-2030
- 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.

Summary of Consultation Responses

Drainage Engineer –

The applicant has correctly identified that the proposed development lies within flood zone 3.

Where sites are identified within Flood Zone 3 the developer is expected to submit a site specific flood risk assessment. The flood risk assessment must demonstrate that the development will be safe from all sources of flooding without increasing flood risk elsewhere and where possible will reduce flood risk overall. Within the site specific flood risk assessment I would have expected to see the sources and predicted depth of flooding being identified, the proposed finished floor levels for the ground floor, details of safe access and egress routes, details about what to do in an emergency including safe refuges, details of flood mitigation measures being proposed including an emergency flood plan for all buildings on the site. In addition the flood risk assessment should identify that the owner/manager of the building will be signed up to the Environment Agency's coastal flood warning system.

The submitted flood risk assessment addresses the issues raised above.

It should be noted that existing flats are located on the ground floor and basement of this property and no new flats are being proposed on the ground floor or basement of the development. Following conversion, the existing flats must have access to upper floor levels within the building should a flood event occur.

Based on the above comments, providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, I have no objections on drainage grounds to planning permission being granted for this development.

Highways -

The site is located on Sands Road, near the seafront. The main access to the site is through Sands Road, which has footways on both sides and provisions for on-street parking on southern side of the road. Sands Road is subject to a 30mph speed limit. Owned by a charity, it is understood the development is undertaken wholly or mainly for charitable purposes. It consists of 9 self-contained flats.

Site History

It is understood there is no relevant recent planning history.

Design Considerations

Pedestrian and Cycle Access

The Design/Access and Supporting Statement does not specify details of the pedestrian and cycle access arrangements for the site. The Application Form indicates that no changes are proposed for pedestrian access to or from the public highway.

At present, Sands Road has footways on both sides, with a dropped kerb in front of the site. At the junction of Sands Road and Adelphi Lane, there are dropped kerbs and tactile paving to facilitate crossing Adelphi Lane.

An on-road cycle lane is present 100m east of the site along Eastern Esplanade which leads to Paignton Beach, starting at the B3201/Sands Road junction.

The Highway Authority is satisfied with maintaining the current access arrangements for pedestrians on the basis the change in the number of trips is likely to be negligible.

Cycle Parking

As per Appendix F of the adopted Torbay Local Plan, it is recommended that flats provide at minimum one cycle parking space per flat, and that these parking spaces are secure and covered.

The Application Form mentions that the site currently does not have existing cycle parking spaces. As part of this application, it is proposed to provide 9 cycle spaces within the site. This proposal aligns with local planning standards, and the Highway Authority is satisfied with the cycle parking provisions. It is required that the proposed cycle parking should be secure and covered.

The Application Form further mentions that the site currently has 2 part-time employees and proposes an increase to 3 full-time employees and 4 part-time employees. Appendix F of the adopted Torbay Local plan recommends 1 cycle parking space per two employees. It is recommended that the applicant provides cycle parking spaces for the employees.

Public Transport Access

The Department for Transport's Inclusive Mobility guide (2021) recommends that bus stops in residential areas are located within a 400-metre walking distance.

The nearest bus stop to the site is the Sands Road bus stop, located only 20 meters west of the site on Sands Road. The bus stop has flag and pole arrangements.

The Highway Authority are satisfied the site is in a sustainable location.

Vehicular Access

The Application Form indicates that vehicular access will remain the same as the existing arrangement. Currently, vehicles access the site from Sands Road, entering

the parking area via the dropped kerbs in front of the site. There are no proposed changes to this access arrangement.

Car Parking

According to Appendix F of the Local Plan, it is recommended to provide one parking space per flat, with 20% of the available spaces equipped with electric vehicle charging facilities. Additionally, visitor parking spaces are required.

The proposed layout (Drawing No. YPH SK03) indicates tarmac parking for 6 cars while the application form indicates 7 existing parking spaces, the applicant is required to clarify the existing car parking spaces.

With no changes to the current parking provisions at the site. This provision falls short of 2-3 parking spaces for the residents. The Highway Authority note that the site is in a sustainable location, with public transport access and public car parks / on-street parking available. It is also noted the proposed land use for charity/supported housing schemes. For these reasons, the Highway Authority are satisfied with the proposed parking provision.

Refuse / Servicing / Emergency Access

The Application Form mentions that the existing arrangements for waste storage and collection will be retained. Torbay Council's waste storage guidance recommends that communal stores must be located no further than 25 meters from the nearest point of access for the refuse collection vehicle.

It is understood refuse bins are located at the southwest corner of the site, close to Sands Road. The Highway Authority is satisfied with the drag distance.

No details have been provided of how the site will be accessed by emergency services. Based on the existing site arrangement, it appears that in the event of an emergency, a fire appliance can access the front of the property from Sands Road. The Planning Officer should consider whether a Fire Statement or Strategy is required for access to the rear of the building.

Conclusion

The Highway Authority does not wish to raise an objection to the proposals.

Planning Policy -

Response dated 27/08/2024:

Thank you for your consultation on the above application for change of use of 9 holiday flats from restricted holiday use to an unrestricted residential use. It was useful to meet on site and discuss the proposals with the applicants on 22 August. In my view, we need the points made and explanation about the YMCA's operation to be set out in writing to help the LPA understand the nature of the proposal. The

applicant has indicated that this application is separate from the adjoining 41 Sands Road. I will provide separate comments on no.41, but there is clearly a cumulative issue to consider.

In summary: Subject to the applicant being able to provide details of the proposal providing social rented accommodation to local Torbay young people, I would want to provide a very supportive policy comment. The use is somewhat unusual, and it may be appropriate to recommend approval based on a personal use by the YMCA (or similar Registered Provider).

The existing and proposed use class is a matter for you, having regard to Simon's Catterall's advice, and I appreciate that it has been considered at pre-application stage. However, for the reasons below, I think it would be best to treat it as a sui generis use. I agree that the existing use is class C3 but restricted to seasonal use by planning condition attached to P/1988/2336, which restricts the occupancy to between 15th March and 15th January. In terms of the proposed use, the applicant is the City of Exeter YMCA (which is a registered provider) but the use will be to provide affordable accommodation with a level of support/supervision, but not care, to young local people from Torbay. Because the use is not providing care, I agree that it is not Class C2. With respect, I don't think that the proposed use falls comfortably within Class C3(b): the use of a dwelling house by up to six people living together as a single household and receiving care. Based on 9 apartments there would be more than 6 people living in the apartments and not as a single household, and not receiving care. Class C remains complex and unclear, despite clarity being provided by the Rectory Homes case [2020] EWHC 2098 (Admin). For the reasons set out below, the building's current layout is unlikely to be acceptable for a straightforward and unrestricted Class C3 use. However, it appears that the YMCA intend to use the accommodation for specialist affordable housing for young people. The proposed use does not fit neatly within Class C2 or C3, and may be best treated as sui-generis.

I understand that a S73 application to remove the occupancy condition is not possible as it would lead to an untenable conflict with the purpose of the permission for P/1988/2336.

The proposal does raise a number of important policy and corporate considerations, including:

- Meeting Torbay's pressing need for housing, and particularly affordable housing; and the role that former holiday stock can play in meeting that need.
- Allowing the release of outdated holiday accommodation to other uses (residential) whilst ensuring that this does not undermine the tourism character of such areas.

- Regenerating coastal resorts and seeking to reduce the high levels of deprivation common to many such areas.
- Seeking to remove unsightly features that have historically been allowed to buildings during Torbay's resort heyday. This may be more of an issue within Conservation Areas.
- Seeking to reduce the risks and impacts of flooding and climate change. Paignton, like many seaside towns is vulnerable to flooding and has dated shared sewers and drainage infrastructure. There is a legacy of hard standings which increase run-off into the shared sewers.

The proposal has some similarities to 21 Sands Road (P2022/0972 and P/2023/0318), both of which applications were refused by Planning Committee. The LPA must be consistent in its decision making, but each application must be determined on its individual merits.

As noted, there is a sister application P/204/0529 on 41 Sands Road, which is the other side of the semi-detached Victorian villa that comprises 39-41 Sands Road. 39 and 41 combined are not especially large, comprising a single semi-detached Victorian pair of townhouses, with what appears to be a combined total of 9 flatlets and 9 HMO rooms (in no.41).

Turning to what I see as the main policy areas:

The provision of housing and affordable housing

The application would create 9 small dwellings for permanent occupancy (rather than seasonal use). The units are still capable of being dwellings even if outside of use class C3 (as per the Rectory Homes case). Torbay's five year supply and Housing Delivery Test results mean that applications for the provision of housing must be determined on the basis of the Presumption in Favour of Sustainable Development. This is set out in both Policies SS3 and SS13 as well as paragraph 11 of the NPPF. The application provides 9 dwellings, which is likely to carry moderate weight. Torbay's wider constraints in terms of greenfield sites mean that it will be very difficult to meet needs other than by finding creative uses from brownfield opportunities, including the repurposing of former holiday accommodation.

The proposal would create 9 units of social rented housing restricted to local young people. We need clarification of this from the applicant, but I understand from Sam Irving that the council has supported the scheme and funding bid for it. The proposal is below the threshold for affordable housing in the Torbay Local Plan (policy H2) or the NPPF, but can still be provided as affordable housing so long as appropriately controlled. Torbay has a pressing need for affordable housing and its provision, especially for groups such as care leavers or other vulnerable people. This should be

given very substantial weight in the planning balance. I would draw attention to the changes in the draft (2024) NPPF which strengthen the Presumption in relation to affordable housing; and adds a reference to “looked after children” as an additional category of need at paragraph 63. The proposal will help deliver on Homes England Funding, which is a local finance consideration in the proposal’s favour. The delivery of much needed affordable homes for local young people is perhaps the most important policy consideration and should be given very substantial weight.

The Impact on Tourism (Core Tourism Investment Area) Policies

I note that the English Riviera BID has been consulted but indicated that it does not comment on individual applications.

The proposal falls outside of the Core Tourism Investment Area (CTIA) in the Torbay Local Plan. Therefore Policy TO2 sets out a fairly flexible policy on allowing change of use away from tourism. This allows change out of holiday use, where the holiday character of the area and range of facilities are not undermined, and one or more of the following applies:

- 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 TO1.4 is relevant in that it seeks to resist the provision of small apartments in tourism areas.

The property is within the Core Tourism Investment Area in the Paignton Neighbourhood Plan, which more extensive than the Local Plan CTIA, and Policy PNP14 applies. PNP14a) resists HMOs. PNP14b) indicates that “there will be flexibility to allow change of use where from holiday accommodation where it can be evidenced there is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function” PNP14c) seeks the removal of unsightly features etc.

The proposal does not appear to be supported by evidence that there is “no reasonable prospect of tourism use” or that the proposed use would “support and not detract from the area’s function”. As such there is conflict with Policy PNP14, and potentially TO2 unless supported by further information. It would be useful if the applicants provided comments on this point. However, the development plan must

be treated as being out of date and imposing a “no reasonable prospects” policy with full force would run counter to the intentions of the Presumption in Favour of Sustainable Development. This is especially the case where the council is relying on brownfield options to meet a significant amount of its housing need.

It was useful to inspect the apartments as currently laid out as Holly-Lets. 39 Sands Road is very well located for Tourism, within easy walk of the Beach, Paignton Harbour and a range of other attractions. Despite the excellent location, the apartments are very small, and probably offer a level of tourism accommodation that was acceptable in the in the 1980s, but fall short of today’s standards. The late 1980s was a time before the extent of the decline in seaside resorts was fully appreciated (although the peak in tourism was in the mid-1970s). The creation/extension of units for holiday use that were not suitable for permanent occupation was common. The size of some of the apartments is more consistent with a hotel room (and I note that the Flood risk assessment refers to the use as Class C1). Online reviews on Trip Advisor appear to indicate that the property has been used as holiday accommodation by “Holly-Lets”. But there are no additional facilities on-site. The council would no longer impose a condition requiring the property to be vacant between 16th January and 15th March, although such conditions were common in the 1980s. The condition would permit 10 month residential occupancy rather than restrict the use to tourism; but prevent any occupation, including by tourists, during the February Half Term. This again reflects the outmoded nature of the operation.

The English Riviera Destination Management Plan seeks a reduction in the stock of redundant accommodation, although it sets no specific target for holiday apartments. However, the clear direction of the Local Plan and Destination Management Plan is to improve overall quality whilst allowing a managed decline in numbers. There has been significant recent expansion in modern purpose built accommodation close to the application site. This includes the 121 room Ibis Styles, and 161 bedroom Mercure on the Esplanade, as well as proposed refurbishment of The Redcliff Hotel and construction of the a hotel at Livermead. These mean that there is a good supply of modern purpose-built accommodation coming on stream; much of it in even better holiday locations than 39 Sands Road, and which offer more modern accommodation and better facilities.

On that basis the loss of the holiday apartments would not detract from the range of facilities available in Torbay. It appears very unlikely to me that there would be an in-principle objection to the loss of tourism use of 39 Sands Road. The relevant issue is likely to be the suitability of the small flatlets for residential use, and ensuring that the proposed use is compatible with the tourism nature of the area.

Indices of Deprivation, Community Investment Area and concerns about potential disturbance.

The above indicates that from a policy point of view the principle of residential use is likely to be acceptable. Although as an unrestricted application, the accommodation would need to be reconfigured to bring it within the space standards set out in Policy DE3. I note that there are objections based on the suitability of the use within a tourism location. 39 Sands Road falls within the top 10% deprived “local neighbourhoods” (lower super output area) in England in both the 2015 and 2019 indices. This is part of a wider deprivation issue in Torbay, arising principally from poor employment opportunities and low-income levels. However, the site is located within the top 10% most deprived Lower Super Output Areas in England for crime (risk of material and personal victimisation at a local level). As such Policy SS11 of the Local Plan is relevant.

Details of management arrangements, and the nature of the operation and client groups are important to consideration of this matter. From our on-site discussion, which needs confirmation by the applicant, I understand that the flatlets will be occupied by local young people on a fairly temporary basis, with a level of supervision by YMCA staff. Although 24/7 onsite staff is not proposed, the premises will be monitored by CCTV and residents would have access to support at all times.

As such the proposal would meet many of the criteria in Policy SS11: Particularly SS11.2 “Help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay” and SS11.4 “Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities”. The applicants have argued that their operation in Sidwell Street, Exeter has helped reduce and prevent crime and fear of crime (SS11.5). The operation would provide support into local employment and training, in accordance with SS11.11 and provide people with access to local services in a highly sustainable location (SS11.12). The applicant has indicated that they would look to agree local training arrangements with the nearby hotels, which would be supported by Policy SC3 of the Local Plan.

There could be concerns about the impact of an unregulated residential occupancy, particularly given the size of the units. On that basis it may be appropriate to seek a personal consent or tie occupancy to a Registered Provider. So long as the applicant is able to provide written details of their operation, the use is likely to have a very positive impact on the Community Investment Area and provide a compatible use to the main tourism area.

Living Conditions for Residents, Flooding and Built Environment Improvements

The apartments are very small, some appear to be less than 20 sq. m. There are no proposed communal facilities, and limited outdoor amenity space, although this may be less of a problem due to the proximity of the beach and Paignton Green. However, the small size of the apartments would raise conflicts with Policies DE3

and SS11 of the Local Plan if the application were for an unfettered Class C3 use. (Which could hypothetically be lawfully occupied by up to 54 (9 x 6 people). There is a contradiction in saying that the accommodation is below the standard expected by the modern tourist, but acceptable as a permanent residence. The basement flat has limited light from 2 windows, although its living conditions on the ground appear less confined than they may appear on plan.

The creation of some form of communal area would be welcome. If it is not proposed, I think we need some form of explanation from the applicant about how residents' amenity will be managed. I have fewer concerns about residents' amenity based on the YMCA model of the units providing relatively short-term accommodation that young people will move on from. I also note that the proposal will achieve the refurbishment and modernisation of the accommodation, which will also enhance the living conditions.

Flood Risk and building improvements

The area is within flood zone 3 and contains an existing basement flat. Policies ER1 of the Local Plan and PNP15 plus PNP13c) of the Neighbourhood Plan are relevant, but consideration hinges on specialist Engineering advice. The application is supported by a Flood Risk Assessment by AWP, which does not apply a sequential or exceptions test, as the proposal does not move the property to a higher flood risk category. I note that Dave Stewart has provided specialist advice on flooding and drainage (dated 12 August 2024) and has indicated that he has no objection provided that floor resilience measures, including access to upper floor levels are provided.

39 Sands Road is not within a conservation area, although Roundham and Paignton Harbour is located on the south side of Sands Road. Both Policies PNP14 and TO2 seek the removal of unsightly features. The most obtrusive feature of the building appears to be the hard surfacing of the property frontage for car parking. Removing surface water from shared sewers is likely to be critical to wider water management in Paignton. Removal of some of the extensive hard standing and reinstatement of some soft landscaping features/sustainable drainage features would improve the character and appearance of the area reduce run-off into Torbay's shared sewers (both of which are NPPF "footnote 7 matters"). Parking requirements are a matter for Highways, but there is a case to accept a reduction in parking numbers given the very specific nature of the use and the highly sustainable location of the application site with level access to a range of facilities including the town centre, employment, bus and train stations.

As you are aware, the site is within the 8km zone for recreational effects on the Berry Head SAC. However, the proposal is unlikely to increase impact on the grassland from the existing holiday use.

Policy conclusions

The proposal does raise wider policy issues. As noted above we do need confirmation from the applicant about the nature of the use, and it may be appropriate to provide a personal consent tied to an agreed management/supervision regime. Subject to this being in place there is strong policy support for the application.

Response received 23/09/2024 following the submission of updated floor plans, a planning statement and Management Plan and the change of planning description to reflect the contents of these documents:

Thank you for your updated email of 20th September 2024 in relation to the applications P/2024/0374 39 Sands Road, Paignton and P/2024/0529 41 Sands Road, Paignton. I note that the applicant has now submitted a Management Plan and a planning statement. I have previously commented on these applications on 27th August. The crux of my comments were that the but the nature of the proposal did throw up policy issues in relation to tourism, management and the nature of the use. I will not revisit the policy assessment in my earlier comments, but noted that the introduction of an un-restricted HMO or unregulated very small flatlets would present a conflict with both the tourism policies (TO1 of the Local Plan, and PNP14 of the Paignton Neighbourhood Plan), as well as Policies SS11, DE3 and H4 of the Local Plan). However, I suggested that the use as described to us on our site visit was a sui generis operation to provide social rented supported accommodation for local young people, which would provide a significant social benefit.

It looks from the submitted City of Exeter Management Plan that no's 39 and 41 would be operated as an interconnected use. But I assume that the two applications remain separate? 41 would, strictly speaking be an HMO, although the term "supported accommodation" is also apposite. I note that the Management Plan refers to the residents having a local connection; this is likely to be important to the acceptability of the proposal and may need securing through condition or legal agreement.

I have read the Planning Statement by McMurdo Land and Planning. This focusses heavily on the Presumption in Favour of Sustainable Development. I agree that the Presumption applies to number 39. It is much more moot whether it applies to HMOs. The section of the PPG that the planning statement refers to relates to student accommodation (68-034-20190722). The council has not previously treated HMO rooms as individual dwellings with weight in the presumption. Whilst the "tilted balance" is likely to be applicable, I consider that there are other policy considerations that are more weighty in determining the current applications.

The Planning Statement does not really address the tourism issue in any detail. The Paignton Neighbourhood Plan remains part of the development plan and is the legal

starting point for determining planning applications, along with the Local Plan. For non-strategic matters such as the boundary of the CTIA, the Neighbourhood Plan carries more weight than the Local Plan (paragraph 30 of the NPPF). The PNP is more than 5 years old and therefore “out of date” especially in relation to housing supply matters. But it is a matter for the decision maker (acting rationally) as to how much weight should be given to out of date policies. In this context, it would be very helpful to have more details about the impact of the proposal on tourism.

I note that the applicant’s email has provided some details of falling profit and the general trend for falling demand of small guest houses. However, it also indicates a very seasonal operation of the guest house, and does not get into other matters such as additional facilities, size of the shower ensembles, unproductive floor areas, running costs etc. Nor does it assess the impact on the new hotels on The Esplanade on bookings etc. This falls somewhat short of demonstrating that there is “no reasonable prospect” of tourism use required by Policy PNP14(b). 39 and 41 Sands Road are located close to the seafront and a range of facilities. Notwithstanding this, the Destination Management Plan has identified an oversupply of small guest houses, and a need to re-purpose holiday accommodation. I have covered this in more detail in my previous emails and consider that there would not be a policy objection to the loss of tourism. But the matter is finely balanced, and an element of tension with Policy PNP14 does exist, based on the evidence currently provided.

In my assessment the provision of socially rented supported accommodation for local young people is the most significant benefit from the scheme. The need for such accommodation is identified in the Corporate and Community Plan. Securing government funding for the scheme is a local finance consideration. I agree with the Planning Statement that this should carry a great deal of weight in the planning balance (irrespective of whether it’s tilted or not). I did not see a reference to local training agreements with local employers (apologies if I missed it), but if provided this would also provide an additional benefit and counter any loss of employment issues.

I appreciate that the application does raise difficult policy matters. An unregulated HMO use would create “significant and demonstrable” policy conflicts. However, the precise nature of the proposal would have substantial public benefits including the provision of much needed affordable accommodation to assist young people. On that basis I would wish to support it from a policy perspective. The use will need to be conditioned (or subject to a S106 Agreement) covering the operation of the use as supported accommodation for young people by the YMCA in accordance with a Management Plan. It may be appropriate to grant a personal consent: Whilst another organisation may be able to run a facility along similar lines and therefore be acceptable; there are very specific management and support policies employed by the YMCA that are necessary to make the use acceptable in planning terms. The LPA would need to consider a different user on their own merits. This may also

address the interconnectedness of the proposed uses of numbers 39 and 41 (i.e. it would be necessary for them to have the same operator).

Flooding issues are dealt with in my previous emails, and I note that Dave Stewart has not raised an objection. However, if approved a scheme of flood resilience and safe escape measures will need to be provided. I would welcome the addition of sustainable drainage as an element of this.

I hope that this is of assistance. The applications do raise some complex policy issues, particularly balancing the social benefits of supported social homes for young people with the tourism impact. I would wish to support the proposal because of its significant social benefit and the support it draw from the council's corporate policies.

Response received 25/09/2024:

Further to our discussion about the additional text in the draft NPPF on affordable housing. In my view the draft NPPF carries only limited weight at present. The provision of affordable housing already carries very significant weight in the planning balance.

Torbay Council's Community and Corporate Plan 2023-43 Community and Corporate Plan - Torbay Council describes itself as "The golden thread" running through all the council's plans, policies, and operations. The Corporate and Community Plan makes several specific references to meeting the needs of children and young people. The second "Community and people" priority (p6) is "To keep children safe in their communities and provide safe environments for our young people to thrive in". The Plan also undertakes that all residents are supported to live independent, healthy, active lives and that young people in receipt of services from children's services are prepared for adulthood. The Council's Corporate Parenting Strategy Corporate Parenting Strategy - for consultation (undated) notes the council's ongoing support for care experienced young people up to the age of 25. Priority 5 of the strategy is to support children and care experienced young people to develop into independent, confident and responsible adults.

The Housing Strategy Housing Strategy 2023 to 2030 - Torbay Council notes that Torbay has five times the national average of children and young people in care or care experienced, with a 42% increase since 2011. It states that: "*There is also an urgent need to create housing stock that provides independent living and move-on accommodation options for our care experienced young people*". It undertakes work proactively and in partnership with partners such as Homes England and Registered Providers (etc.). It seeks to maximise opportunities to deliver affordable homes and to provide more homes to improve the outcomes for our care experienced leavers.

These corporate strategies are a material consideration and should be afforded significant weight as statements of the Council's corporate priorities. These informed my overall policy conclusion that the provision of supported social housing to young local people is the most important policy consideration in relation to the two Sands Road applications.

Divisional Director Community and Customer Services -

Information has also been provided as an evidential document outlining the need in Torbay and reasons for youth homelessness.

The provision will assist in delivering a key element of the Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential to enable a working pathway were those young people that find themselves at point of homeless are prevented from doing so, and or are moved out of the Council emergency temporary accommodation. The public consultation feedback undertaken in August 2024, on the draft strategy also clearly feedback the impact that rough sleeping and homelessness has upon our wider communities.

The need in Torbay cannot be disputed, as the evidence from national data available for 2022/23 shows that Torbay continues to see a high proportion of households per thousand assessed as homeless, compared to the national average, with 15% of presentations being between 18 and 24 years old. Also, the grant funding by which this accommodation would be provided, is through a government initiative called SHAP (Single Homeless Accommodation Program). This grant program was by invite only around specific cohorts, one of which was homelessness related to young people. Therefore, the need and significance being recognised by Central Government. The conditions of the grant also came with funding to provide support at the accommodation.

Placements at the accommodation would be undertaken in partnership with the Council enabling full control over allocations with restrictions for local residents. I would also request that a Management Plan also be placed within any permissions providing detailed information on how the properties will be managed and hours of staff of site.

YMCA, are a recognised trusted national provider of accommodation and support for young people. This would also provide an initial footprint for wider working to address accommodation for young members of our communities in Torbay.

Police Designing Out Crime Officer -

From a designing out crime, fear of crime and anti-social behaviour perspective please find my advice and recommendations below.

It is recommended that all doors leading to the private flats should meet the requirements of PAS: 24 2022. Where doors are not being replaced the locks should be replaced and upgraded if they do not meet the requirements of PAS:24.

Likewise any external doors providing access into the building must also meet the minimum security standards of PAS:24 2022, It is recommended that the door is fit for purpose under BS 6375. The door should be fitted with a self-closing and locking mechanism to prevent the door from being inadvertently left open.

All ground floor and easily accessible windows must also meet the requirements of PAS 24. Where these do not it is recommended that they are placed with products which are tested and certificated to PAS:24:2022. They should also be fitted with window restrictors to prevent reach in burglaries where the offender reaches through an open window and steals anything within reach.

An access control system would also be recommended to be installed that can grant access to required areas when the valid card or key fob is presented to a proximity reader to the communal entrance door, it should have the ability to authorise and restrict access to certain times of the day of certain users. It must also be able to record the and identify the location, user, type and date of every system event which must be stored and available for up to 30 days. I would not support the use of any trades persons or time release mechanism being installed to the communal entrance doors due to the evidence of anti-social behaviour and unauthorised access associated with these.

Where appropriate mail delivery systems are not installed to buildings containing multiple dwellings this can lead to crime problems associated with delivery of posts or parcels. It is therefore recommended a mail delivery system is installed.

It would be beneficial to consider installing a CCTV system which is essential in the prevention and detection of crime, particularly when considering, burglary offences and disputes. A clear passport to compliance document should be in place prior to installation to ensure that the system and each camera have a clear purpose and that the needs of the user are met.

To search for a local accredited and approved CCTV installer please click on these links www.nsi.org.uk or www.ssaib.org

Key things to consider with CCTV

- Cameras, wiring, recording and monitoring equipment should be secured.
- CCTV equipment should meet the BS62676 standard.
- CCTV should be designed in so its compatible with lighting.

- Coverage should include access control areas, all external entry/exit points and fire exits.
- The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended for prosecution.
- CCTV systems must be registered with the Information Commissioners Office (IOC) and be compliant with guidelines in respect to General Data Protection Regulation (GDPR) and Human Rights legislation. Further information is available via www.ico.gov.uk
- For guidance on the use of CCTV images as legal evidence see also BS 7958:2015 CCTV Management and Operation Code of Practice.

Summary of Representations

At the time of writing a total of 11 letters of objection and 5 letters of support have been received in which the following matters were raised:

Objections:

- Impact on tourism and businesses
- Anti-social behaviour and impacts
- Planning history of 21 Sands Road
- Contrary to Local Plan and neighbourhood Plan policies
- Set a precedent
- Alternative sites should be considered
- Area of deprivation
- Unsuitable location
- Tourism area
- Loss of tourist identity will lead to decline
- Safety
- Noise
- No local community for people to integrate with
- Existing transient population due to HMO's

Support:

- Need to integrate mildly disadvantaged persons into local society
- Well placed for all amenities
- YMCA reputation
- Size of property
- Asset to local community
- Provision of facilities which are in short supply
- New hotels on esplanade providing rooms
- Affordable housing for young local individuals

- Suitable remaining tourist provision

Relevant Planning History

P/1988/2336 Alterations To Provide Additional Holiday Flat, Extensions Providing Enlarged Holiday Flats And Owners Accommodation. Approved 08/02/1989

Planning Officer Assessment

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 key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

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

1. Principle of Development, Housing and Affordable Housing

The proposal is for the change of use of the building from holiday apartments to temporary supported accommodation for the YMCA (sui generis use). The application has come forward in conjunction with application P/2024/0529 for the attached semi-detached property; 41 Sands Road.

The property would be run by YMCA Exeter, which is a registered provider, as affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. The Management Plan confirms the accommodation is intended for young people who are moving on from Torbay's higher supported accommodation, foster placements and supported living arrangements. 9 single occupancy supported 'flats' are proposed where occupants will receive support relating to employment, meaningful occupation, training and education (EMOTE) and will engage in work placements, educational placements, volunteering or engagement within the service itself or social enterprise projects that the service develops. All young people will have named support workers, a personalised support plan, access to therapeutic services and counselling, regular groups, workshops and social, sporting and creative activities.

Young People will live in this 'Stage 2' accommodation whilst they engage in the EMOTE programme. Engagement in the programme is a requirement of being referred to the programme and a requirement within their excluded licence agreement for continued occupation. Young people will progress through the programme at differing speeds and in various routes. The general timeframe for Stage 2 accommodation is between 6 and 12 months, sometimes this extends to 18 months due to the need to access a particular type of move on accommodation, affordability or suitability of options for move on or the need to extend to avoid a person moving on prematurely before they are fully equipped to do so. For this reason, and as the availability of accommodation can differ between Local Authorities the maximum length of stay is set by the YMCA at 3 years.

The onsite staff team will be shared between the property and attached 41 Sands Road and will consist of 1 housing manager, 3 EMOTE programme coordinators, 5 housing support coordinators, 1 facilities coordinator and 1 facilities officer. 39 and 41 Sands Road will be staffed by a professional staff team led by a full-time Housing Manager. The Support Team will be based onsite from 9am to 10pm to provide tailored advice, guidance and individual sessions to residents and swift intervention into any occupancy related issues, and then an on-call cover from 10pm through to 9am. For the initial year of the project, staff will operate a waking night service. This means staff will most likely make use of a vacant room and then later in the year to operate from a communal space (in any of the properties being purchased). It is anticipated that if during the first year the project tolerates really well overnight, staff can leave at the end of the evening shift at 10-11pm and go home, but remain on call. As the project becomes established and the self-regulation of the resident group is proven, they will usually be based within a 15-minute travel radius of site. One staff member remains on-call throughout the evening with another staff member being on "backup" for the on-call staff member able to be contacted as required. Alongside this, a senior manager (normally the Housing Manager is contactable to advise in emergencies and a duty Safeguarding Lead Officer is also on call at any time throughout the night). In addition, Facilities and Building maintenance staff are on duty throughout the day and availability for emergency repair response is in place out of hours.

The Management Plan confirms the general timeline of a day for residents as:

Whilst the programme will develop based on the needs of the current cohort on the programme at the time, the general timeline of the day would look like, a morning motivational time leading into and through breakfast, travel to work and education placements, preparation and deployment at various social enterprise locations in Paignton. These activities will take up the majority of the morning and afternoon of each weekday. Responsive repairs and maintenance volunteering opportunities would take place on site during the

day. Some staff will remain based on site making arrangements for the service, organising new partnerships, recording and monitoring and other administrative duties.

In the late afternoon to evening there would be workshops either on site or as part of a community group off site and likely an evening social activity around food. At around 10pm, staff move from the project to a location nearby as a method of moving the houses into an end of day state and remain on call and able to monitor CCTV as required.

Weekends are less structured and more free time, however many weekends will include planned social activities, trips and occasional residential. The times are still part of the support framework and develop essential skills of independent living and personal growth alongside a bit of time away and some fun!

The proposal will result in 5 self contained units of accommodation which feature kitchens/living rooms, bathrooms and bedrooms (flats 1, 4, 7, 8 and 9). 3 cluster bedrooms are proposed (for use in conjunction with the proposed facilities at 41 Sands Road) which feature a bedroom and bathroom (flats 2, 5 and 6) alongside 1 nightstop/crashpad room (flat 3). The proposal also features a communal laundry room for all units and a cluster kitchen for flats 2, 5 and 6.

The nightstop/crashpad room will be used to enable the YMCA to carry out a Nightstop assessment of a young person to effectively judge their ability to move directly to a Stage 2 service over the period of 1- 3 weeks rather than insist and then find a placement in a high support project. This is used only where there is a high likelihood and supporting evidence that the young person is ready for Stage 2 (i.e. they are already in paid work, they have lost accommodation due to Section 21 eviction, etc).

There is a pressing need for homes in Torbay. The Housing and Economic Needs Assessment (2022) indicates a comparable level of need and that there are around 1600 households on the waiting list for housing. At April 2024, the Council could only demonstrate a housing land supply of about 2.69 year's supply of deliverable housing sites. This is a significant shortfall.

The draft consultation NPPF, although of limited weight, places further emphasis on the need for housing, securing affordable homes and the need for different groups in the community including looked after children.

Policy SS13 supports residential development in accordance with the Local Plan and Policies of the NPPF. The site is not allocated in the Local Plan or Neighbourhood Plan for housing.

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. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed given the proposal will result in the loss of holiday apartments and the formation of supported accommodation which includes 5 self contained units of accommodation, three cluster bedrooms and one nightstop/crashpad room. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by the National Planning Policy Framework (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; 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 8: This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a 5 year supply (or a 4 year supply), if applicable, as set out in paragraph 226 of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77 and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous 3 years.

The formation of the proposed supported accommodation is considered to carry moderate weight given the number of units. Torbay's wider constraints in terms of greenfield sites mean that it will be very difficult to meet housing needs other than by finding creative uses from brownfield opportunities, including the repurposing of former holiday accommodation.

The proposal would create 9 units (of a mixture of types) of affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. The provision will assist in delivering a key element of the Council's Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential to enable a working pathway were those young people that find themselves at point of homeless are prevented from doing so, and or are moved out of the Council emergency temporary accommodation. The public consultation feedback undertaken in August 2024, on the draft strategy also clearly feedback the impact that rough sleeping and homelessness has upon our wider communities. The need in Torbay cannot be disputed, as the evidence from national data available for 2022/23 shows that Torbay continues to see a high proportion of households per thousand assessed as homeless, compared to the national average, with 15% of presentations being between 18 and 24 years old. Also, the grant funding by which this accommodation would be provided, is through a government initiative called SHAP (Single Homeless Accommodation Program). This grant program was by invite only around specific cohorts, one of which was homelessness related to young people. Therefore, the need and significance being recognised by Central Government. The conditions of the grant also came with funding to provide support at the accommodation. Placements at the accommodation would be undertaken in partnership with the Council enabling full control over allocations with restrictions for local residents. Torbay Council's Community and Corporate Plan 2023-2043 describes itself as "The golden thread" running through all the Council's plans, policies, and operations. The Corporate and Community Plan makes several specific references to meeting the needs of children and young people. The second "Community and people" priority (page 6) is "To keep children safe in their communities and provide safe environments for our young people to thrive in". The Plan also undertakes that all residents are supported to live independent, healthy, active lives and that young people in receipt of services from children's services are prepared for adulthood. The Council's Corporate Parenting Strategy notes the Council's ongoing support for care experienced young people up to the age of 25. Priority 5 of the strategy is to support children and care experienced young people to develop into independent, confident and responsible adults.

The Housing Strategy 2023 to 2030 notes that Torbay has five times the national average of children and young people in care or care experienced, with a 42% increase since 2011. It states that: "There is also an urgent need to create housing stock that provides independent living and move-on accommodation options for our care experienced young people". It undertakes work proactively and in partnership with partners such as Homes England and Registered Providers (etc.) and seeks to maximise opportunities to deliver affordable homes and to provide more homes to improve the outcomes for our care experienced leavers.

These corporate strategies are a material consideration and should be afforded significant weight as statements of the Council's corporate priorities.

Given Torbay has a pressing need for affordable housing and its provision, especially for groups such as care leavers or other vulnerable people including the 18 to 24 year old demographic which this form of supported accommodation will cover, is considered to result in very substantial weight in the planning balance.

Policy H6 supports measures to help people live independently and to live active lives within the community.

Policy SS11 aims to improve the sustainability of existing communities in Torbay, enhance the quality of life for residents and, especially, to close the gap between the most and least disadvantaged neighbourhoods.

The application site falls within the top 10% deprived "local neighbourhoods" (lower super output area) in England in both the 2015 and 2019 indices. This is part of a wider deprivation issue in Torbay, arising principally from poor employment opportunities and low-income levels. However, the site is located within the top 10% most deprived Lower Super Output Areas in England for crime (risk of material and personal victimisation at a local level). As such Policy SS11 of the Local Plan is relevant. Details of management arrangements, and the nature of the operation and client groups are important to consideration of this matter. The supported accommodation will be occupied by local young people aged 18 to 25 years old on a temporary basis generally between 6 to 12 months but with a maximum length of 3 years, with a level of supervision by YMCA staff. Although 24/7 onsite staff is not proposed, the premises will be monitored by CCTV and residents would have access to support at all times.

The proposal is considered to meet many of the criteria in Policy SS11: Particularly SS11.2 "*Help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay*" and SS11.4 "*Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities*". The Management Plan confirms:

Cluster rooms with a shared kitchen are a method to both trial a young person's ability to live in a shared house (which would likely be the most cost-effective independent living option for them in the future) whilst also enabling young people to meet and match with possible future house/flat mates that they would feel comfortable to share with. The methods of living in a shared house, such as how bills are managed, how household essentials are purchased, expectations and personal standards on levels of cleaning, communication and socialisation are worked out in practice and can be taken forward into a longer-term shared housing situation.

More self-contained rooms/flatlets are also available as many young people are truly unable to share and socialise enough following trauma, mental health challenges or due to disability. In these situations, this type of accommodation gives a higher level of privacy without allowing so much self-contained freedom that would lead to isolation, loneliness and a lack of engagement which could put their progression at risk.

The staff housing management team assess and monitor these arrangements closely, listen to the feedback of the young people and communicate the decisions made around allocations clearly and fairly.

The Management Plan provides certainty about the proposed use, client group and operation of the site and the mixture of 'flat' sizes and types provides a mixture of accommodation types to meet the needs of the future occupiers. This mixture of types and sizes, which in some instances fall below the size standards set out in the Nationally Described Space Standards, is designed as stage 2 move on accommodation which provides a stepping stone for residents through the 4 stages of the YMCA's pathway of supported accommodation. This move on accommodation is specifically designed as temporary accommodation which will directly help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay and promotes social inclusion and access to housing. The client group is local young people from Torbay. Given this results in a direct local benefit, this is recommended to be secured by condition.

The operation would provide support into local employment and training, in accordance with SS11.11 and provide people with access to local services in a highly sustainable location (SS11.12). The applicant has verbally indicated that they would look to agree local training arrangements with the nearby hotels, which would be supported by Policy SC3 of the Local Plan.

The Management Plan considers security and the local community stating that:

CCTV cameras will be located on our site, both internal to the building and to externally to cover all aspects of the property. CCTV footage is encrypted and stored both locally for up to 365 days and on secure cloud servers for 30 days. The cameras operate a facial recognition system to assist us in making young people feel safe and for assisting the police with accurate and detailed footage of any incident that could occur.

Our aim is to assist the police and the local community to make these areas safer places to socialise and walk through at all times of the day and night, for both our own tenants and all those who live locally and use them.

The groups, activities and events that we will be delivering for those living at Sands Road and the future Stage 3 and 4 accommodation, will also be available to the local community. These will include wellbeing groups and activities, sporting activities, creative Arts and Music, IT groups and workshops, day trips and events. These will complement the many activities already happening in and around Paignton.

We have already, and will continue to engage well with local residents, community associations and business owners to see how we can contribute to the surrounding area.

The applicants have also verbally confirmed that their operation in Sidwell Street, Exeter has helped reduce and prevent crime and fear of crime. The measures outlined are considered to help to reduce and prevent crime, whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict (SS11.5).

The proposed use, including the day to day operation of the site which will feature occupants undertaking offsite activities such as employment or education is considered to have a positive impact on the Community Investment Area with the use blending in with other residential uses. The proposal is therefore considered to be a compatible use to the main tourism area.

Overall, the proposal will result in affordable housing let at social rents and operated as supported accommodation which targets a key demographic with a high proportion of households per thousand assessed as homeless. The proposed use is considered to contribute to improving the sustainability of existing and new communities within Torbay, and especially the way in which it closes the gap between the most and least disadvantaged neighbourhoods and the use is considered compatible with the surrounding mixture of tourist accommodation and residential dwellings. As such the principle of the development is considered to accord with Policies SS13, SS11, H1 and H6 of the Torbay Local Plan.

2. Impact on Tourism

Policies TO1 and TO2 of the Local Plan support the tourism sector. Policy TO1 supports the retention of tourist accommodation in sustainable locations with a focus on the Core Tourism Investment Areas (CTIAs). The site is not within the CTIA allocation of the Local Plan. Policy TO2 states that outside CTIAs the change of use of holiday accommodation will be allowed where the holiday character of the area and range of facilities and accommodation offered are not undermined and one or more of the following apply:

- The site is of limited significance in term of its holiday setting, views and 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 Policy goes on to say that proposals for small apartments or HMO's will not be permitted where they would conflict with the tourism character and offer of the Bay.

The proposal is not for an HMO, but for supported accommodation which includes self-contained units, cluster rooms and some communal facilities.

39 Sands Road is very well located for tourism, within easy walk of the beach, Paignton Harbour and a range of other attractions. Despite the excellent location, the existing holiday apartments are very small, and likely offer a level of tourism accommodation that was previously acceptable but fall short of today's standards. Online reviews on Trip Advisor appear to indicate that the property has been used as holiday accommodation know as "Holly-Lets" with the last review dated June 2022 giving a 1* rating. There are no additional facilities on-site. The Council would no longer impose a condition requiring the property to be vacant between 16th January and 15th March, although such conditions were common in the 1980s. The condition would permit 10 month residential occupancy rather than restrict the use to tourism; but prevent any occupation, including by tourists, during the February Half Term. This again reflects the outmoded nature of the operation.

The supporting text for Policy TO2 advises that the 'Turning the Tide for Torbay' Tourism Strategy (2009)' indicates that, due to a change in the demand for tourism facilities, an oversupply of small and outmoded accommodation will be reduced. The English Riviera Destination Management Plan seeks a reduction in the stock of redundant accommodation, although it sets no specific target for holiday apartments. However, the clear direction of the Local Plan and Destination Management Plan is to improve overall quality whilst allowing a managed decline in numbers. There has been significant recent expansion in modern purpose built accommodation close to the application site. This includes the 119 room Ibis Styles, and 161 bedroom Mercure on the Esplanade, as well as proposed refurbishment of The Redcliff Hotel and construction of a hotel at Livermead. These mean that there is a good supply of modern purpose-built accommodation; much of it in even better holiday locations than 39 Sands Road, and which offer more modern accommodation and better facilities. The apartments are located within a tourist location which does not front the seafront, thereby likely providing a cheaper alternative holiday option. However, the small scale nature of a number of the rooms

with small bathroom provisions in all of the flats with no shared facilities or outside space results in a low quality form of accommodation.

The application submission confirms that 39 Sands Road was first marketed for sale on the 18th January 2023 until the YMCA offer was accepted in February 2024. There was a total of 11 viewings (including the YMCA's) and the majority of these were 'investors' outside of the area (mainly from London), looking to buy properties and convert them into Houses in Multiple Occupation, and a minority considering buying properties for use as holiday / family homes, but not continuing as holiday-lets or guest houses.

On that basis of the above, namely the quality of the accommodation, it is considered that the loss of the holiday apartments would not detract from the range of facilities available in Torbay. Sands Road features a mixture of residential and holiday accommodation. The change of use of the property to supported accommodation is not considered to undermine the holiday character of the area. The proposal is therefore considered to accord with point 1 of Policy TO2 of the Local Plan.

Point 2 of Policy TO2 of the Local Plan requires that one or more of the points noted apply. In this instance the site is located within a holiday setting and has a clear relationship with the existing tourist facilities in the area. The application has been supported by a written statement which tries to demonstrate that there is no reasonable prospect of the site being used for tourism or related purposes. Evidence includes the length of time the property was for sale and the following commentary:

The properties comprising 39 and 41 Sands Road are of limited significance in terms of their holiday settings, views and facilities, and there are no reasonable, viable future prospects for these two properties continuing to be used as tourism accommodation, in the short or long-terms.

Sands Road is within fairly easy walking distance from the seafront, but it is somewhat removed from Paignton's key tourism areas. The properties are small, and whilst there are holiday-let and guest house type facilities in both, these facilities no longer meet the expectations of tourists and visitors to Paignton when compared to the far more popular and modern overnight, short and long-stay 'branded' hotels actually on the seafront, and which of course represent far better value for money.

In 2023 and since, 282 new bedroom spaces have opened at the new Ibis and Mercure Hotels on the seafront, plus the refurbishment of the Esplanade Hotel, and more recently with the Fragrance Group having purchased the Inn-on-the-Green for a further hotel development, all of which will no doubt adversely affect the future of the traditional guest house and B&B trade. It is

also understood that the Fragrance Group will reopen the Corbyn Head Hotel in Torquay with 152 bedroom spaces, as soon as Spring 2025.

The Destination Management Plan 2022 to 2030 in (6) above identifies the need to reduce the stock of serviced accommodation by 2% by 2027, with the need to reduce redundant stock. This indicates that older, formerly residential properties in use as small hotels and guest houses should be allowed to revert back to residential use, as holiday accommodation is replaced by modern purpose built hotels.

It has been said that the Sands Road area is of relatively limited significance in terms of the holiday setting, and a need has been identified to reduce the older style guest and visitor type accommodation offered, and particularly where new modern hotel accommodation in more central locations has recently been opened.

Given the quality of the accommodation alongside the marketing length, it is reasonable to consider that it is unlikely that there is a reasonable prospect of the site being used for tourism in the future although the evidence and commentary provided is not considered to provide outright confirmation that there is no reasonable prospect of a continuing tourist use.

The last point within TO2(2) is that *the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.* The proposal is considered to meet this point. As noted earlier in this report, the proposal results in affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. This targets a key demographic with a high proportion of households per thousand assessed as homeless. This, alongside the provision of additional housing when the tilted balance is engaged results in a strong benefit which is considered to outweigh the loss of the holiday accommodation. Given the proposal meets this point, the proposal is considered to accord with Policy TO2 of the Local Plan.

Although outside the Local Plan Core Tourism Investment Area allocation, the site is within the Paignton Neighbourhood Plan Core Tourism Investment Area as such Paignton Neighbourhood Plan Policy PNP14 is relevant. This policy states that:

- a) Houses in Multiple Occupation known as HMO's will not be supported within the Core Tourism Investment Area in accordance with Policy PNP1(f);
- b) Within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there

is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function, and;

c) Applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area. Evidence of neglect of properties will not be a reason supported for change of use of holiday accommodation that could otherwise be used for tourism purposes.

The proposed use would not be an HMO, the specific use would be for supported housing which includes a mixture of self-contained flats and cluster flats associated with the adjacent property. The proposal is therefore considered to pass criterion a) of Policy PNP14.

The application is supported by a Management Plan which provides an argument as to why the applicant considers that the development proposed would not detract from the areas function. Given the details provided, including how tenancies and anti-social behaviour will be managed, security and the local community, and the confirmation of the likely day to day operation of the site, it is considered that the change proposed would support and not detract from the area's function. As noted above, given the quality of the accommodation alongside the marketing length it is reasonable to consider that it is unlikely that there is a reasonable prospect of the site being used for tourism in the future although the evidence and commentary provided is not considered to provide outright confirmation that there is no reasonable prospect of a continuing tourist use. The proposal therefore fails to pass criterion b) of Policy PNP14 on this basis.

The proposal accords with criterion c) given the intention to remove signage relating to the tourism use. There are no unsightly features or restoration required to the building given its visual appearance from public vantage points.

Overall, the proposal is considered to accord with Policy TO2 of the Local Plan however the proposal is contrary to Policy PNP14 of the Neighbourhood Plan.

3. Design, Visual Impact and Heritage

Paragraph 131 of the National Planning Policy Framework (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. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning

documents. 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 SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them.

Policy PNP1(c) of the Paignton Neighbourhood Plan requires development to be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy PNP14 of the Paignton Neighbourhood Plan states that applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area.

The site is located adjacent to the Roundham and Paignton Harbour Conservation Area. Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) sets out the general duty as respects Conservation Areas, which requires Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

The proposed plans detail no external changes to the building. The Management Plan confirms that the proposal includes the removal of hotel signage. A planning condition requiring the removal of the signage prior to the first occupation as supported accommodation is recommended to secure this change.

The proposal would not result in any unacceptable harm to the character or visual amenities of the locality and will preserve the character and appearance of the adjacent Conservation Area and is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, Policy PNP1(c) and Policy PNP14 of the Neighbourhood Plan, and the guidance contained in the NPPF.

4. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity for future and neighbouring occupiers.

Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal protect residential amenity in terms of noise, air, or light pollution.

Future occupants

The proposal will result in 5 self-contained units of accommodation for single occupancy which feature kitchens/living rooms, bathrooms and bedrooms (flats 1, 4, 7, 8 and 9). 3 cluster bedrooms are proposed (for use in conjunction with the

proposed facilities at 41 Sands Road) which feature a bedroom and bathroom (flats 2, 5 and 6) alongside 1 nightstop/crashpad room (flat 3). The proposal also features a communal laundry room for all units and a cluster kitchen for flats 5 and 6.

The 'flats' include the following floor space:

- Flat 1 (self-contained): 27sqm
- Flat 2 (cluster bedroom): 19.37sqm
- Flat 3 (Nightstop/crashpad): 19.56sqm
- Flat 4 (self-contained): 26.93sqm
- Flat 5 (cluster bedroom): 19.43sqm
- Flat 6 (cluster bedroom): 16.06sqm
- Flat 7 (self-contained): 28.17sqm
- Flat 8 (self-contained): 45.44sqm
- Flat 9 (self-contained): 56.21sqm

All 'flats' will have access to the shared laundry at ground floor level and the cluster flats will have access to the shared kitchen within the building and the living facilities in the adjacent building; no.41. Each unit will be single occupancy resulting in a maximum occupancy of 9 individuals.

Each self-contained unit will have its own kitchen, living room, bedroom and bathroom facilities with some units featuring combination rooms. With regard to the floor areas of the self-contained units, each unit is for one person. Under the Nationally Described Space Standards the floor area should be 37sqm for a 1 bedroom flat however, the nature of this proposed use is different from fully independent living and the Management Plan provides further confirmation on the intended use:

Whilst the planning applications for these properties are submitted separately due to their current status, the desire and management of the building will be that they operate as a single project. This will enable the more effective use of 41 Sands Road's communal spaces for the residents of 39 Sands Road.

Many of the group support work, workshops and activities will be based on site and so the utilisation of these spaces will enable us to work in a way that best suits the delivery of engagement work, which for example, often involves eating and socialising together.

There will still remain a sense of separation for the residents, as to which house they occupy and this will be particularly in relation to their own shared kitchens and separate laundry rooms for example.

Although 3 of the self-contained units have smaller floor areas, these flats are considered to be appropriate for a temporary use for the intention of social rented

move on accommodation, when considering the management and occupational arrangements outlined in the Management Plan. The cluster rooms will feature a bedroom/living space and separate kitchen with access to communal living facilities in the adjacent building; no.41.

It is considered reasonable to suggest the addition of a planning condition requiring the maximum length of stay for all the 'flats' with the exclusion of flat 3, to a maximum length of 3 years given the accommodation is designed as temporary accommodation and would not be suitable for indefinite permanent occupation given the size of the accommodation and the management arrangements.

Given the need for access to the shared facilities, the application site and use of no.41 proposed via concurrent application P/2024/0529 are intrinsically linked. As such it is recommended that a s106 legal agreement is secured to link the two facilities at 39 and 41 Sands Road, as no.39 cannot operate independently with the level of communal facilities located solely in no.39.

Flat 3 is a nightstop/crashpad room which features one window with obscure glazing and views focused towards the adjacent building. This room will be used for a maximum of 3 weeks for assessment procedure. The room is not considered to be appropriate as a cluster bedroom given the limited outlook and therefore a condition is recommended to ensure the occupancy of the room by an individual for no longer than 3 weeks.

Each remaining unit will feature a good quality light and outlook and given the living arrangements the floor sizes are considered to be appropriate for this form of temporary supported living accommodation.

It is considered appropriate to secure the use via a personal consent to the YMCA given the management arrangements and future occupants detailed are considered to result in a unique situation which has been demonstrated as acceptable. A condition limiting the occupancy and use to 9 individuals within the supported living units is also recommended given the size of the units are only appropriate for single occupancy.

The site is within a highly sustainable location being within walking distance of the town centre, transport links, public gardens and the beach.

Neighbouring occupants

The proposal involves no alterations to the property other than the removal of signage.

As detailed earlier in the report, the Support Team will be based onsite from 9am to 10pm to provide tailored advice, guidance and individual sessions to residents and

swift intervention into any occupancy related issues, and then an on-call cover from 10pm through to 9am. For the initial year of the project, staff will operate a waking night service. This means staff will most likely make use of a vacant room and then later in the year to operate from a communal space (in any of the properties being purchased). It is anticipated that if during the first year the project tolerates really well overnight, staff can leave at the end of the evening shift at 10-11pm and go home, but remain on call. As the project becomes established and the self-regulation of the resident group is proven, they will usually be based within a 15-minute travel radius of site. One staff member remains on-call throughout the evening with another staff member being on “backup” for the on-call staff member able to be contacted as required. Alongside this, a senior manager (normally the Housing Manager is contactable to advise in emergencies and a duty Safeguarding Lead Officer is also on call at any time throughout the night).

The Police Designing Out Crime Officer has not raised an objection to the application but has provided suggestions to minimise risks. The Management Plan is considered to provide acceptable detail of the intended operation which will be secured by a planning condition. This includes details of how anti-social behaviour will be dealt with alongside tenancy support which will aim to avoid any disruption to those within the service and those living in and around the area. This is considered to satisfactorily address amenity concerns which have been raised relating to the proposed use.

Policy SS11 of the Local Plan states that development proposals will be assessed as to whether they can promote social inclusion and seek to eliminate exclusion based on access to housing, health, education, recreation and other facilities. The proposal would provide affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay which is greatly required in Torbay and it is therefore considered that it would help to maintain a mixed and balanced community within the area and would provide a facility to those disadvantaged within Torbay.

Subject to the recommended conditions, the proposal is considered to be in accordance with Policies DE3 and SS11 of the Local Plan and PNP1(c) of the Paignton Neighbourhood Plan.

5. Access, Movement and Parking

Policy TA3 and Appendix F of the Local Plan states that flats should be provided with 1 on-site parking spaces for motor vehicles, cycle storage, and provisions for the storage of refuse bins and recycling boxes.

The application is for the conversion of a holiday apartments to 9 supported living units containing a mixture of self-contained and cluster flats. There are seven existing car parking spaces on the site which are to be retained. These spaces are to

be unallocated. The applicant had advised that, in practise, future occupiers are unlikely to own cars.

The Council's Highway Engineer has noted that there are no changes to the current parking provisions at the site. This provision falls short of 2-3 parking spaces for the residents. The Highway Authority note that the site is in a sustainable location, with public transport access and public car parks / on-street parking available. It is also noted the proposed land use for charity/supported housing schemes. For these reasons, the Highway Authority are satisfied with the proposed parking provision.

Appendix F of the Torbay Local Plan expects storage space to be provided for at least 1 cycle per flat, and 1 space per two employees therefore, the proposed development should allow provision for the storage of 12 cycle spaces within the site. The Management Plan confirms the intention to provide a secure bike shelter with interior lighting and full CCTV coverage within the site with the capacity to store both staff and resident bikes. Residents are assisted with the provision of bike locks and other methods of keeping their bikes and belongings secure as part of encouraging sustainable transport. Details of the proposed covered and secure cycle storage can be secured by condition, and this is recommended.

Subject to conditions to secure cycle storage and to ensure that the car parking spaces are retained and kept available for use for parking purposes, the proposal is considered to be in accordance with Policies TA2, TA3 and Appendix F of the Torbay Local Plan and Policies PNP1 (d) and PNP1 (h) of the Paignton Neighbourhood Plan.

6. 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 PNP1 (c) of the Paignton Neighbourhood Plan encourages development proposals to retain existing natural features and features of biodiversity value on site, and to enhance biodiversity where possible.

The application is not liable for biodiversity net gain due to the de minimis exemption.

The application site is occupied and not in an area identified as likely to house protected species. The proposed development is for change of use and does not involve works to the roofs. The presence of protected species is unlikely. However, an informative advising a precautionary approach can be imposed on the planning decision.

The proposal is therefore considered to be in accordance with Policy NC1 and Policy PNP1 (c) of the Paignton Neighbourhood Plan.

7. Drainage and Flood Risk

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) requires developments to comply with all relevant drainage and flood risk policy.

The site is located within Flood zone 2 and 3 and a critical drainage area. The application has been supported by a site specific flood risk assessment.

The Councils Drainage Engineer has reviewed this document and has noted that existing flats are located on the ground floor and basement of this property and no new flats are being proposed on the ground floor or basement of the development. Following conversion, the existing flats must have access to upper floor levels within the building should a flood event occur. Providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, the proposal is acceptable and would accord with Policy ER1 of the Local Plan.

The proposed development would also not result in an increase in the impermeable area on the site.

The proposals are therefore not considered to present any material changes in terms of flood risk. A planning condition securing the flood mitigation measures identified within the site specific flood risk assessment and to ensure safe refuge for the basement and ground floor units is recommended in line with the recommendation of the Drainage Engineer.

The proposal is therefore deemed acceptable in terms of its impact on drainage and flood risk and is considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

8. Waste

Policy W1 of the Torbay Local Plan requires as a minimum that all developments make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated by a development. PNP1(d) of the Paignton Neighbourhood Plan requires space to be provided for solid waste storage within the curtilage of a site.

The Management Plan confirms that "YMCA Exeter are committed to shaping environmentally conscious communities as detailed in our Environmental Policy and we ensure all of our tenants receive clear instructions and procedures to make recycling simple and their first choice. Tenants are responsible for taking out their own waste and YMCA staff will be responsible for placing the bins at the kerb side

on collection days.” The Council’s Highway Engineer has confirmed that it is understood that refuse bins are located at the southwest corner of the site, close to Sands Road and the Highway Authority is satisfied with the drag distance.

A planning condition securing adequate waste and recycling facilities is recommended.

The proposals therefore conform with the requirements of Policy W1 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

9. Designing Out Crime

Policy SS11 of the Torbay Local Plan requires development to help 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 Paignton Neighbourhood Plan requires all developments to show how crime and fear of crime has been taken into account.

The Police Designing Out Crime Officer has raised no objections to the proposed development which includes the installation of CCTV at the premises.

A planning condition is recommended requiring that the principles and practices of secured by design will be followed. The proposals are considered to meet the requirements of Policy SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

10. Low Carbon Development

Policy SS14 requires development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials.

Policy ES1 seeks to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited.

Policy PNP1(f) of the Paignton Neighbourhood Plan outlines that new development, where appropriate and subject to viability, should undertake sustainable construction and water management technologies.

The proposed conversion of the building will utilise the existing footprint and internal layout.

The proposed development is therefore considered to meet the requirements of Policies SS14 and ES1 of the Torbay Local Plan and PNP1(f) of the Paignton 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

Housing development is recognised as an important driver of economic growth and there would be some minor economic benefits to the construction industry from the proposed development. Once the units were 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 proposal would result in the loss of 8 holiday apartments and 1 owner's flat and it has not been demonstrated that there is no reasonable prospect of continuing use for tourism purposes.

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

The Social Role

The principal social benefit of the proposed development would be the provision of additional supported accommodation of an affordable nature which provides a specialist and vital service for local residents of Torbay within a key demographic at risk of homelessness. This would provide a clear social benefit which weighs very strongly in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be relevant to the proposed development are impacts on the heritage, streetscape, ecology, biodiversity and surface and foul water drainage. These matters have been considered in detail above. The proposed development is in a sustainable location with a range of public transportation links. It is considered to be a low-impact. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

Human Rights and Equalities Issues Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the

applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance. Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106 – A s106 is required to tie the use of 39 Sands Road to the use of 41 Sands Road given the use of 39 is reliant on the use proposed via concurrent application P/2024/0529.

CIL - Not applicable

Funding – the proposed use is subject to Homes England & Department of Levelling Up, Homes and Communities 'Single Homeless Accommodation Programme' (SHAP) Funding obtained by a partnership of Torbay Council and YMCA Exeter.

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.

BNG

The application is not liable for Biodiversity Net Gain (BNG) due to the de minimis exemption.

Proactive Working

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

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

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

Development Plans often contain policies that pull in different directions and it is sometimes difficult to come to a view whether a proposal is in accordance with the development plan when “taken as a whole”. Whilst the proposal is supported by policies in the Local Plan that seek to boost housing supply, affordable housing and sustainable communities, there are conflicts with the loss of tourism accommodation within a designated core tourism investment area. The proposal is therefore not in accordance with the Development Plan.

As noted above, the Council has less than 5 years housing land supply and on this basis the development plan must be “deemed” to be out of date. At 2.69 years supply, the shortfall is serious and must be given significant weight in the planning balance. However, the proposal is for only 9 units which include self-contained flats and cluster flats alongside a short period nightstop/crashpad unit, which reduces the weight that should be given to the proposal, and this weight is considered to be moderate. Out of date policies can still carry weight in the planning balance, but in practice attention shifts to other material considerations, especially the Presumption in Favour of Sustainable Development which is set out in paragraph 11(d) of the NPPF.

It must therefore be considered if any adverse impacts of approving the application would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Having regard to the above assessment of the proposed development, the proposal will result in the loss of tourist accommodation within a designated core tourism investment area. It has not been outright demonstrated that there is no reasonable prospect of continuing use for tourism purposes although a level of justification has been provided. However, the proposal results in housing development, when the Council cannot demonstrate a 5 year housing land supply and the proposed use of supported accommodation of an affordable nature which provides a specialist and vital service for local residents of Torbay within a key demographic at risk of homelessness provides a clear social benefit which weighs very strongly in favour of the development.

The development is acceptable in terms of all other material considerations.

The proposal is considered to be finely balanced, however it is considered that overall the benefits associated with the proposed development are considered to outweigh the loss of the tourist accommodation within the core tourism investment area. As such the proposal is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval: Subject to;

- The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;
- The completion of a Section 106 Agreement to tie the use of 39 Sands Road to the use of 41 Sands Road given the use of 39 is reliant on the use proposed via application P/2024/0529.
- 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:

1. Removal of Signage

A scheme for the removal of holiday signage within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development hereby approved.

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012-2030 and Policies PNP1(c) and PNP14 of the Paignton Neighbourhood Plan.

2. Cycle Storage Details

Prior to the first occupation of the development hereby approved, details of cycle storage (secure and weatherproof) for 12 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be installed in accordance with approved details prior to the first occupation of the development and maintained for the lifetime of the development.

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

3. Refuse and Recycling

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

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

4. Crime Prevention Plan

Prior to the first occupation of the development hereby approved, a Crime Prevention Plan shall have been submitted to and approved in writing by the Local Planning Authority. The submitted Crime Prevention Plan shall detail crime prevention measures for the site, including access control, how external doors and windows will be secured, how private rooms will be secured, details of CCTV, and what facility there will be for the receipt of mail delivered to the property. The use shall at all times operate in full accordance with the details of the Crime Prevention Plan.

Reason: To ensure safety and security for residents of the property and of neighbouring properties, and in accordance with Policies DE1, H4 and SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

5. Use

The sui generis supported living accommodation hereby approved shall:

- a) Only be used to accommodate residents who are already resident within the administrative area of Torbay Council
- b) Only be operated by YMCA Exeter for the approved use
- c) Serve a maximum of 9 residents at any one time in single occupancy 'flats'
- d) 'Flats' 1, 2, 4, 5, 6, 7, 8 and 9 shall not be occupied by an individual for longer than 3 years in total
- e) 'Flat' 3 shall not be occupied by an individual for longer than 3 weeks in total

When the premises cease to be used by YMCA Exeter for the approved use, the use hereby permitted shall cease and the property shall return to use as holiday apartments with owner's accommodation.

Reason: In the interests of providing a service to address local needs and providing an acceptable residential environment in accordance with Policies H1, DE3 and SS11 of the Torbay Local Plan. The site is in an area where a change in either the operator or the type of use may lead to detrimental effects on the area. In the interests of residential amenity in the area and to ensure that the operation of the site accords with Policy DE3 of the Torbay Local Plan 2012-2030. Any variation from the provider of services must therefore have the express approval of the Local Planning Authority.

6. Parking

The existing car parking spaces on the site, shall be retained and provided for the free use of occupants and visitors to the site prior to its first occupation for the use hereby permitted.

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

7. Flood Mitigation

The development shall be carried out in accordance with the submitted flood risk assessment (Ref.:1765, dated 4th July 2024) and the mitigation measures detailed within section 4, including allowing access to upper floor levels within the building should a flood event occur.

These mitigation measures shall be fully implemented prior to first occupation of the development hereby approved. The measures shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In the interest of flood risk safety in accordance with Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance of the NPPF.

8. Management Plan

The development hereby approved shall be operated and occupied in strict accordance with the approved Management Plan (received 02.10.2024) at all times.

Reason: In the interests of providing a service that addresses an identified housing need and in the interests of residential amenity in the area and to ensure the management of the site accords with Policy DE3 and SS11 of the Torbay Local Plan 2012-2030.

Torbay Local Plan

SS13 - Five year housing land supply

SS10 – Conservation and the historic environment

SS12 – Housing

SS14 – Low carbon development and adaption to climate change

SDP1 – Paignton

SS11 - Sustainable communities strategy

H1 - Applications for new homes

H2 – Affordable housing

H6 - Housing for people in need of care

DE1 – Design

DE3 - Development amenity

ES1 – Energy

ER1 - Flood risk

ER2 – Water management

SC1 – Healthy bay

TA2 - Development access

TA3 - Parking requirements

NC1 - Biodiversity and geodiversity

W1 – Waste hierarchy

TO1 –Tourism, events and culture

TO2 – Change of use to tourism accommodation and facilities

Paignton Neighbourhood Plan

PNP1 (c) – Design Principles

PNP1 (d) – Residential Development

PNP1 (f) – Towards a sustainable low carbon energy efficient economy

PNP1 (g) – Designing out crime

PNP1 (h) – Sustainable Transport

PNP1 (i) – Surface Water

PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area

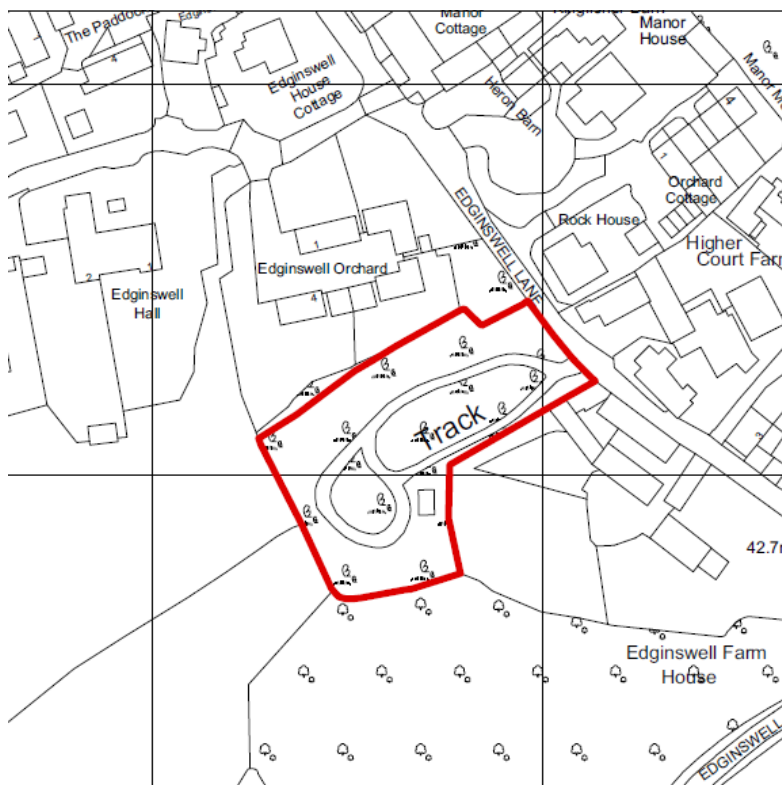
This page is intentionally left blank

TORBAY COUNCIL

Off

Application Site Address	Brends Orchard Land Adjacent Edginswell Farm House Edginswell Lane, TQ2 7JF
Proposal	Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-establishment of orchard included in project (plans amended 25 April 2024).
Application Number	P/2023/0172
Agent	Gillespie Yunnie Architects
Applicant	Mrs H Harle
Date Application Valid	16/02/23
Decision Due date	31/07/24
Extension of Time	18/10/24
Recommendation	Refusal
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by Councillors.
Planning Case Officer	Sean Davies

Site location plan



Site Details

The site, Brends Orchard, land adjacent to Edginswell Farm House, Edginswell Lane, Torquay, comprises a parcel of land with an access on the west side of Edginswell Lane. The site is located within the Edginswell Future Growth Area for housing and related development as defined by Policy SS2 of the Torbay Local Plan. The site is not in a Conservation Area but is adjacent to a number of Grade II listed farm buildings at Edginswell Farm to the south. The Council has stated that the stone wall bordering the site along Edginswell Lane is also Grade II listed, although much of this wall has been removed or reduced in height. The site is covered by an area wide Tree Protection Order (ref 2021/002) which was introduced after the site was substantially cleared of pre-existing trees. A proposed extension to the National Cycle Network runs in front of the site along Edginswell Lane and connecting to the existing National Cycle Network along Newton Road.

Description of Development

Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-establishment of orchard included in project (plans amended 25 April 2024).

The proposals include the following elements:

- Clearance of the site to create five new dwellings arranged in two blocks opposite each other consisting of a "Barn" structure comprising three terraced dwellings each with three double bedrooms and a "Farmhouse" structure comprising two semi-detached dwellings each with three double bedrooms and a single bedroom. All new houses would have rear gardens and very small planting areas at the front.
- Hardstanding between each block and a detached bin store.
- A new vehicular access onto Edginswell Lane, with some pre-existing and removed sections of a listed wall rebuilt and otherwise reduced in height.
- Provision of a section of bridleway through the site built to adoptable standards (including street lighting) using a shared surface from Edginswell Lane to join, in future, to an envisaged longer section of bridleway connecting the site with the future Edginswell Growth Area.
- Enhanced boundary planting and a residents' orchard between the side of the proposed barn unit and Edginswell Lane.

Engagement

The applicant has not made a pre-application enquiry prior to the submission of the current application or sought advice from the Torbay Design Review Panel.

The applicant initially provided an INITIAL set of documents and plans with the application. The Council's Uniform IT system records that neighbour letters advertising the application were printed on 27/02/23. In response to objections and negative comments received from neighbours and consultees about these proposals officers arranged a meeting with the applicant on 27/06/23. Those present were the applicant and their planning agent, the Case Officer, the Senior Officer who had provided heritage and design comments, a Torbay Highways Officer and a representative from WSP who had advised Torbay Highways about the highway impacts of the proposals.

The Council engaged with the applicant from the date of the meeting for almost a year to resolve various issues associated with the proposed access. This culminated on 25/04/24 when the applicant submitted 29 new documents and plans to address outstanding issues connected with the access and a REVISED set of plans showing the proposed housing within the site.

Officers reconsulted neighbours and relevant consultees on these revised plans for three weeks. The summaries of "Consultee responses" and "Representations" below are ordered "INITIAL PROPOSALS" and "REVISED PROPOSALS" to make this clear.

It should be noted that officers made it clear to the applicant on 30/04/24 following receipt of the 29 documents received on 25/04/24 that:

"...Please note that it is very unlikely now that I will accept any further plans or info for this case. The file has been left open for a very considerable amount of time now. I expect that we will assess what we now have and make a decision. If we need a minor change making to make the proposals acceptable, we will of course ask for that but as I say it is very unlikely that I will accept any new plans now at this stage unless we specifically ask for them".

Notwithstanding this, while officers remain of the view that the design of the proposed housing is unacceptable, they have attempted to resolve other points of disagreement with the applicant in advance of Planning Committee in line with a request made by Councillors. As a result, details of the proposed access, ecology issues and tree dominance have now been resolved.

Details about progress in resolving these issues are provided under relevant sections of the report below.

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:

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy 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.

Summary of Consultation Responses

As noted above, officers have received two design iterations of the proposals from the applicant. The summary below is split into two parts. The INITIAL PROPOSALS section summarises responses received from consultees in relation to the original proposals. The REVISED PROPOSALS section sets out consultee responses received in relation to the second set of drawings supplied by the applicant in April 2024. It is important to note that officers did not reconsult all consultees and opted not to do this where the initial consultee response was considered to be sufficient to also cover the revised proposals.

INITIAL PROPOSALS

Torquay Neighbourhood Plan Forum: "...The Forum Objected to the previous Application, P/2021/0809. We have reviewed this new Application against Development Policies, and find a similar level of non-compliance, as shown in the attached Policy Checklist.

The Forum is deeply concerned that while the parcel of land lies at the edge of the Future Growth Area the land, which was a historic orchard, has been cleared without any known permissions. This premature clearance has meant that proper and full assessment of the area is no longer possible so any environmental impact cannot be fully addressed. Nevertheless, the site is associated with Lesser Horseshoe Bats, is in a Flood Risk Zone 1, appears to include a subterranean water course which has not been identified, and may be susceptible to subsidence into sink holes. In addition, the location in a small hamlet with narrow lanes raises concerns with regards to accessibility and highway safety. The existing hamlet comprises a number of historic agricultural buildings, some of which are Grade II Listed. No account of the impact has been addressed in the Application.

On the basis of non-compliance with 19 Local Plan Policies and 9 Neighbourhood Plan Policies, the Forum requests that you Refuse this Application for variation...

Objection to Policies SS1, SS3, SS8, SS9, SS10, SS11, SS14, TA1, TA2, C4, NC1, HE1, H1, DE1, DE2, DE3, DE4, ES1, ER1, ER2, ER4 of the Torbay Local Plan and Policies TS1, TS3, TH1, TH2, TH6, TH8, TH11, TE3, TE4, TE5, TE6..."

Torbay Arboriculture: "The site is accessed off Edginswell Lane between a residential complex and a number of what appear to be farm buildings. The majority of the significant trees and shrubs are located around the periphery of the site with the central areas overgrown. The units are located to the west of the site with the access of Edginswell Lane and associated parking for the 5 properties to the front of each of the properties. The tree protection plan 1271.1.TPP indicates the location of the tree protection fence. The concern with the layout is the potential for the offsite trees (T2 and T3) to be perceived as dominant, leading to unwanted applications for tree removal or substantial pruning particularly of the Pine tree. The landscape plan shows the planting of an orchard to create a strong feature at the entrance to the site - this is welcomed. The remaining planting does not adequately bolster the existing hedgerows or provide boundary treatments that would enhance the hedgerows. Although hedgerow enhancement is discussed within the ecological assessment it is not apparent on the submitted landscape information.

Conclusion: The site is not sustainable from an arboricultural or landscape planting perspective.

Recommendation: Provide further planting to bolster the existing hedgerows to include planting densities, sizes and maintenance. Assessment of potential dominance of units 1, 2 and 3 by trees off site trees 2 and 3”.

South West Water: “I can confirm South West Water has no comment or concern”.

Torbay Structural Engineer: “Nothing to report from this office – no specific risks you describe known to pertain to this locality...”

Devon County Council Ecology: No objection. Request for submission of Metric for Biodiversity Net Gain.

Torbay Community Safety: no objection subject to Construction Management Plan.

Natural England: “No objection”

County Archaeologist: “...I recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team. If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with Paragraph 205 of the National Planning Policy Framework (2021) and Policy SS10 in the Torbay Local Plan 2012 - 2030, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

‘No development shall take place until the developer has secured 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. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently 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 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development...”.

Senior Officer comments (Heritage): “... The two main heritage issues appear to be whether the proposal would preserve the setting of the adjacent Grade II listed buildings and the effect on the character and appearance of the area. I am also aware that we will need to consider the public benefits of the proposed dwellings given the housing supply position.

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. The application is supported by a Heritage Assessment and Access Design Statement.

I acknowledge the evolution of the design since the previous application and subsequent appeal decision. The design challenges have not changed over time, so it seems clear that the balance needs to be struck between the SPD (and illustrative masterplan) and the clear opinion from the Inspectorate on the significance of the historic landscape and in turn the impact on setting of the listed buildings by such a development.

There would be a difference between the views available now (into the site) and the change in view (as part of the proposed development). The proposal would create a public viewing points through the urbanisation of the area and by creating a link to future development. There would be a new appreciation of the listed buildings, of their setting and in turn the changed landscape value of the site. There would therefore appear to be change to the significance and setting of the listed buildings through the proposal.

The architectural language has evolved significantly from the previous schemes which aims to reflect the agricultural/rural nature of the local area. The proposal aims to create a farmhouse with associated barns,

store and yard area. The layout is broadly similar in position to the previous scheme, in that the form is taken in two lines either side of a vehicle access. I appreciate the attempts to move the dwellings further into the site and group them, but I am unclear how this significantly overcomes the previous reasons for refusal and inspectors decision.

The three unit barn block appears relatively monolithic, with a highly complex front elevation utilising full length windows. The overall height and massing appears to assert a range of buildings much higher than the lower listed counterparts on Edginswell Lane. The supporting information discusses creating a hierarchy of buildings from Edginswell Lane, however, the proposed barns would be much larger in scale and massing than their listed counterparts.

The tightly designed parking and garden areas to the front seem at odds with the agricultural/rural theme it is trying to establish.

Similarly the two unit 'farmhouse' appears broadly in a position clearly set out in the previous decision as having an impact on the setting on the listed buildings. They would also have similar issues as raised above around the failure to reflect the local setting.

In summary, there's clearly been steps taken to overcome the design challenges set out by the previous decisions. However, there are still extensive new dwellings, all at a large scale, although grouped they are still broadly the same position as previously refused. The proposed rural aesthetic seems to be undermined by some of the design choices, architectural treatment and urban features. In any case, the Inspectors comments were extremely clear on value of the historic landscape setting of the listed buildings.

In my view, the proposal would result in less than substantial harm to the significance of the Grade II listed buildings and conflict with policy SS10 of the Local Plan. Paragraph 11d of the NPPF is not engaged as the impact on designated heritage assets is a clear reason for refusal".

"... Further to my previous comments, please see the following regarding the wall:

The supporting Heritage Assessment for the current application includes the following:

The boundary wall to Edginswell Lane

1.5 In the decision notice to the planning appeal (reference APP/X1165/W/21/3287683) for the most recent application for the site (Torbay Council reference P/2021/0809; see also Section 1.10 below) the Inspector noted public concerns over previous partial demolition of the boundary between the site and Edginswell Lane. Similar concerns had not previously been raised by Torquay Council in this or previous applications. No works are proposed to the boundary wall as part of the current scheme, and the status of the wall is therefore not considered further within this document.

Para 4 of the 2022 appeal states:

'Interested parties have drawn my attention to access works at the entrance to the appeal site.

Photographic evidence has also been submitted which shows a section of roadside (traditional stone) wall (attached to the Grade II listed calf house immediately adjoining the site) removed. The removal of this section of roadside wall would almost certainly require listed building consent. I am unaware of any accompanying listed building appeal and there is no information before me to indicate that any such application has been made'.

I understand an enforcement case has been logged regarding the wall, but I am not currently aware on the progress of this investigation. In my view, managed change through planning and listed building applications to gain access into the site may be acceptable. However, we would require a thorough assessment of heritage significance and balance the public benefits of gaining access to facilitate new housing. The loss of the wall to create the access would appear to be an intrinsic part of understanding the merits of the application".

Torbay Highways: "... Prior to providing a recommendation, the applicant will be required to provide the following information:

Visibility splays of 2.4m x 43m in primary and secondary directions from the new access. If this cannot be provided, then this would result in a refusal from the Highway Authority on safety grounds considering the potential future intensification in use of the site and access;

A dimensioned plan for the new access that is in accordance with the Torbay Council Highways Design Guide for New Developments (July 2021);

An updated refuse management plan for the proposed development that complies with standards outlined within Schedule 1, Part H of the Building Regulations (2015) or provide details relating to the private management company that will service the site; and

Illustrate the provision of a safe and suitable pedestrian / cycle route to ensure connectivity with the Future Growth Area. This should be secured by a suitable, long-term maintenance plan which is to the satisfaction of the Council. In addition, the access through the site and onwards to the valley should be secured as a bridleway with a public right of access so that access is not potentially impeded in the future”.

Torbay Waste & Recycling SWISCO: “If SWISCO are requested to collect domestic recycling and waste, we would collect from Edginswell Lane and will drive up to the bin store. It would be essential for an area of hardstanding to be provided by the entrance to the site, to prevent leaving bins on the highway on collection day. SWISCO also now offer a garden waste collection, using 240 litre wheeled bins, so the developer would need to ensure that there is adequate space for storage of these if the residents choose to subscribe to this service.

If a private contractor is used to collect, they might have problems wheeling bins over the gravel surface for collection. The obstruction to visibility when leaving the site may also cause a problem to any waste contractors leaving the site. I would like to request waste management contributions for this development, in line with the table below.”

Torbay Strategic Planning: “I have been asked to provide some commentary on this application from a strategic planning perspective. These comments update and draw upon previous comments made on previous applications at this site. They should be cross-referenced and seen as a supplement to comments in respect of Highways, provided by colleagues. Principle of housing development: The Torbay Local Plan 2012-2030 identifies this area of land as forming part of a Future Growth Area (Policy SS2) to deliver a range of new development including residential schemes, employment opportunities, green infrastructure, new facilities, etc. This broad allocation in the Local Plan, covering a much wider area than this individual site, is supplemented by additional detail within the Torquay Gateway (Edginswell) Masterplan SPD. The Torquay Neighbourhood Plan is also relevant. The Torquay Gateway (Edginswell) Masterplan provides a concept and illustrative masterplan for the Future Growth Area, including for the provision of 550 homes. Whilst the final built form of the future growth area is unlikely to exactly replicate the masterplan, it does set out key principles to guide the further detailed development of proposals within the area, including on design, layout and strategic approach. With respect to the Brends Orchard site, it is included within an area identified for limited additional development in a sympathetic style which respects the hamlet character of Edginswell and also provide cycle and pedestrian links onwards to the valley area as part of comprehensive redevelopment of the wider valley.

The Torquay Neighbourhood Plan supports development proposals which accord with the masterplan and the objectives of the neighbourhood plan (see Policy TS2, TH6 and Community Aspirations). The objectives for the area include, among others, underlining the importance of high quality, considered design. The principle of providing a form of housing provision on this site is supported by Torbay Council planning policy, including the Local Plan, Torquay Neighbourhood Plan and the Torquay (Edginswell) Masterplan SPD.

Transport connectivity: In terms of transport connectivity, the Masterplan makes it clear that a connecting link should be provided through the site to facilitate a future proposed walking and cycle link connecting future development within the Valley to Edginswell Lane. The application provides for this link and the layout of the route is direct and legible. I am satisfied that a shared surface approach rather than a separated walking/cycle path is acceptable in this instance, given the low numbers of vehicle movements from the proposed dwellings. The application proposes that this route does not become adopted highway and is not built to adoptable highway standards. This creates issues on two counts:

1. Adoptable highway standards provide some surety over meeting minimum standards of quality of provision for all users both initially when the scheme is built and into the future. It is also a key element of enabling waste vehicles to adequately serve properties without the requirement for additional indemnity insurance to be provided and/or for waste provision to be provided away from the kerbside. In this instance the proposed surfacing of the unadopted highway is proposed to be a form of compacted gravel which is likely to cause particular problems for some users of the route undertaking active travel particularly adapted cycles and wheelchair users. A fixed surface, such as metalled or resin-bound, should be provided in order for the lane to enable inclusive use.

2. The security of the long-term effective maintenance of the unadopted lane/route is complicated and, even with the addition of a robust management plan being in place (which detail has not been provided for in this application), the risk of the route not being maintained sufficiently in perpetuity to encourage use by a wide range of walking, cycling and wheeling users is increased if it is unadopted. Given the strategic significance of this route as a connection, the risk to the public is greatly amplified. It would be of a great long-term

benefit to see the access lane built to a standard capable of being adopted by the Council. Currently it is not designed as such.

In addition, the access through the site and onwards to the valley should be secured as a bridleway with a public right of access so that access is not potentially impeded in the future. Considering the potential significance of this connection for active travel and potential high future use, it is recommended that a suitable Section 106 contribution is obtained in order to secure this as such and to also provide appropriate high-quality wayfinding (signage) from both Edginswell Lane and the valley entrances on the eastern and western entry points respectively. The masterplan also indicates some additional development taking place adjacent to this site as part of a limited portion of sympathetic development within this area. To facilitate access to this area by way of vehicles, a vehicular access is envisaged through the Brends Orchard site to allow for connectivity directly to the land to the south of the site. The Council is currently in discussions with a developer, representing multiple land-owners, and work is underway to develop a comprehensive planning application for the wider site. The design work undertaken to date indicates that development is unlikely to be proposed within this area as the emerging strategy favours accessible green infrastructure rather than built development as being more suitable and deliverable in the context of the strategy for the wider valley. Therefore, I am satisfied that the absence of a connecting road to allow onward movement of vehicles is acceptable and the focus on limiting access to pedestrian and cycles is the correct one. However, the potential for the access on the western entry point to be used for emergency vehicles is something which is not currently provided for in the application however could be readily achieved with some changes to the detailing of the entrance both in terms of safeguarding an acceptable width and appropriate gates...”

REVISED PROPOSALS

Torquay Neighbourhood Forum: No response received.

Historic England:

13/05/24

“...On the basis of the information available to date, in our view you do not need to notify us of this application under the relevant statutory provisions, details of which are below...”

Torbay Waste & Recycling - SWISCO:

04/06/24

“...In response to this consultation request I would have no objection to this development. I note that the developer now proposes to build the road to adoptable standards and that it will be subject to a Section 38 agreement. Should the adoption of the highway not progress, a formal indemnity arrangement will be required before SWISCO would drive onto the site to complete collections. This will mean that each dwelling

will be provided with individual recycling and waste containers, to be stored within the curtilage of their own property and presented adjacent to the adopted public highway for collection. I believe that there is adequate space at each property to store waste containers, although I would expect the storage location and the collection point to be shown on submitted plans, to prove compliance with Building Regulations H6. I note the swept path analysis for the refuse collection vehicle, which has been submitted, but I cannot see how our collection vehicles will be able to turn on the adopted highway before leaving the site in a forward gear. Our collection teams would not reverse either on to nor off the site to complete collections and will require a sufficient turning head within the development. As per my original consultation response, I would like to request waste management contributions for this development, in line with the table below...”

Devon County Council Ecology:

13/06/24

“ For application P/2023/0172, our previous response requested that the completed Defra metric calculation spreadsheet is submitted, which evidenced a net gain in biodiversity. This doesn't appear to have been submitted with the recently uploaded documents. We will need to review this to fully comment on the proposed habitat creation and enhancement measures described in the ecology report”.

11/07/24: Biodiversity net gain (following submission of BNG Metric)

“ This application pre-dates the statutory requirement for 10% net gain. With that in mind, even though a 10% net gain in biodiversity is not achieved by this application I am content that a gain in biodiversity is achieved (at the very least no net loss is achieved) and in the absence of a local plan policy requiring anything further, this is deemed acceptable. Please ensure habitat creation and management is secured through a LEMP”.

04/09/24

“ I haven't had any further documentation regarding this application from the consultant ecologist. We spoke very briefly on the phone but I have not received any further information. It is highly likely that any street lighting for this development will not be acceptable from an ecological perspective given the presence of a lesser horseshoe bat roost adjacent to this site. That is one of the reasons why restrictions on lighting was so important – unless a full lighting strategy is submitted which evidences the introduction of street lighting will not impact upon this roost or bat commuting routes, I do not think I will be in a position to support the introduction of street lighting”.

26/09/24: Lighting (following submission of lighting plan)

“The plan is welcomed as it shows the location of the proposed lighting columns, but it still doesn't provide any detail on the impacts of this lighting on ecology. As previously stated, a full lighting strategy which shows lux contours, along with comments from the consultant ecologist, is required for us to understand what impacts the integration of street lighting into this development will have on this site and crucially features used by light sensitive bat species known to roost in the locality. This plan is a good start, but does not go far enough to allow us to make a planning decision”.

02/10/24 (in response to points raised by the applicant and officer queries)

“On reflection of the information submitted to the LPA in the form of the lighting strategy and the previous recommended conditions, I do now believe that sufficient information has been submitted to allow the LPA to better understand impacts on nocturnal wildlife.

The introduction of two lighting columns is noted, but given the locations proposed and the number, it is believed that the detail of light spill can be secured as a pre-commencement condition, which will require the applicant to evidence how best practice guidelines have been followed with regards to bats and lighting, as well as how habitats which are likely used by bats are kept dark. Given this will be a pre-commencement condition, development cannot begin until that lighting information has been agreed with the LPA.

We are aware of the lesser horseshoe bat maternity roost present to the north of the site, and will ensure that flight corridors for the species through the site are secured when discharging the pre-commencement condition”.

“Impacts to the South Hams SAC were screened out during my initial comments – no need for a HRA in this instance”.

Torbay Principal Historic Environment Officer:

12/07/24: General comments

“...I have now had the opportunity to assess the submitted revisions and would offer the following comments:

The inspector in their assessment of APP/X1165/W/21/3287683 has made it clear that the application site lies within the setting of the six adjacent Grade II listed buildings and the green open qualities of the application site are an integral part of the remaining countryside to the south and west of these buildings which make a contribution to their significance as designated heritage assets. As a result, the provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the guidance contained within the NPPF in relation to the historic environment and relevant local policies are engaged.

The current revisions of the scheme go some way to address the concerns previously raised on the proposals by reducing the overall scale of the proposed structures and by refining their design to follow a more successful agricultural aesthetic. In this regard, I would advise that subject to further minor refinement to external elevational treatments, plots 1-3 are largely acceptable. However, issue remains with the proposals for both plots 4 and 5, with regards to their position within the site and the chosen design approach to reference a ‘farmhouse’. The over-domestic approach to these plots, the introduction of an additional building type with an additional material palette would be harmful to the significance of the identified heritage assets and would confuse the clear narrative and hierarchy of adjacent historic development of a singular principal farmhouse (the existing listed building) and its relationship with surrounding ancillary agricultural structures.

It is considered that a more successful design approach which would potentially limit the harm caused to the identified designated heritage assets would be to continue the architectural language used for plots 1-3 and to explore the use of an ‘L-shaped’ form of development within the NW corner of the site which wraps around a central yard. This would allow the southern area of the site, which is considered to be the one of the most sensitive with regards to the setting of nearby heritage assets to be free of built development to provide a more substantial landscape buffer to the group of listed buildings. This would likely require a reduction in the quantum of proposed housing from 5 to 4 and would require significant alterations to the current proposals. As a result, I would strongly advise that this be explored through the detailed pre-application process.

In their current form, although the design of plots 1-3 has improved, the issues highlighted with regards to plots 4 and 5 would still result in less than substantial harm to the significance of the Grade II listed buildings and conflict with policy SS10 of the Local Plan as previously identified by the inspector on previous submissions and through previous versions of this current application. This would have to be weighed against the public benefits of the scheme whilst being mindful that paragraph 11d of the NPPF is not engaged as the impact on designated heritage assets would be considered to be a clear reason for refusal.

With regards to Historic England, they would rarely comment on proposals impacting on the setting of Grade II listed buildings, therefore their comment below is expected. I would echo Jim’s previous comments with regards to the potential unauthorised works to the listed wall in that listed building consent would be required for such works and that a thorough assessment of the heritage significance and impacts of the works would be required along with the balance of the public benefits of gaining access to facilitate new housing. I agree with previous comments that the loss of the wall to create the access would appear to be an intrinsic part of understanding the merits of the application...”

25/09/24: Comments on status of boundary wall (following submission of Addendum to Heritage Statement)

“Thanks for the attached info – from the information provided to date I would still be of the opinion that the wall is listed for the reasons previously given. The applicant has the ability to make use of Historic England’s enhanced listing service should they wish to challenge this:

<https://historicengland.org.uk/services-skills/our-planning-services/enhanced-advisory-services/listing-services/>

As the updated assessment suggests, the level of harm caused by the loss of the section of walling should be weighed against the public benefits of the scheme. I would advise that this would cause a low level of ‘less than substantial’ harm which should be included with the other heritage harm identified – this would add further weight to be assessed against the public benefits of the scheme as the NPPF requires. The general duty for LPAs as respects listed buildings in exercise of planning functions will also be engaged which affords special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

Torbay Highways:

05/06/24:

“... The Highway Authority has previously provided the following consultation responses in relation to this planning application:

24th May 2024

19th February 2024

2nd February 2024

3rd January 2024

14th June 2023

2.0 Update

Access

2.1 In the most recent response to this planning application the Highway Authority opted to recommend a ‘prior to commencement’ condition to provide double yellow lines in order to ensure the proposed access junction can be accessed by larger vehicle turning north (i.e. fire appliance / refuse collection).

2.2 However, concerns have been raised that the condition may not be implementable, and the planning process needs to be clearer.

2.3 Therefore, the Highway Authority are now of the position that a drawing needs to be submitted that shows the double yellow lines northwards out of the site access junction. In the event the associated double yellow line TRO is not implemented, a second drawing is required that shows a build-out or other suitable design feature in the location of the TRO that will prevent car parking to the immediate north of the access [this would then need to be delivered via a S278 – the design must be in line with relevant standards]. This second drawing requires a swept path assessment to be submitted to demonstrate a large vehicle can turn out the site and safely route pass the build-out/designed feature [Note to applicant: a RSA S1/S2 will be required at the S278 stage should the build-out / design feature be required].

2.4 Until the above details have been submitted, the Highway Authority are unable to confirm a safe access arrangement can be provided that accommodates larger vehicles and therefore wishes to raise an objection.

2.5 Once details are provided and found to be satisfactory, the Highway Authority will recommend a Condition which sets out the need for the implementation of the TRO or build-out/design feature option prior to use of the permitted development.

2.6 The following was stated in the previous Highway Authority response:

2.7 This remains applicable, however it is requested that the applicant submits a plan which shows the provision of adoptable street lights along the internal access road as this is a key route for the adjacent future growth area. Once this submitted, the Highway Authority will recommend a condition that the proposed active travel route through the site to the growth area will remain clear and maintained until adopted. The condition will also state that the highway details submitted which must accord with adoptable

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

2.8 The following was stated in the previous Highway Authority response and remains applicable:

Onsite Design

Drawing No. 797d-LvW-GEN-EL-DR-TR--LS01 sets out the proposed long section of the access road into the site. This shows a 10m length at a 5% gradient at the junction with Edginswell Lane and the remainder at a maximum gradient of just over 5%. This is in-line with the guidance which is set out on page 20 of Torbay's Highway Design Guide and is therefore considered acceptable.

It is stated within the 'Response to Highway Authority Comments', dated April 2024, that "the access road is now designed to adoptable standards and will be subject to a Section 38 Agreement". This is welcomed.

Drainage

Due to the proposed hard standing at the site, coupled with the gradient of the access road, there is considerable potential for rain water run off from the site onto Edginswell Lane and create issues with standing water / flooding. Prior to the commencement of any works on site, the Applicant should provide detailed drainage design to the Local Highway Authority which addresses the potential for run off from the site / access road onto Edginswell Lane. This has been requested by way of planning condition.

3.0 Conclusion

3.1 The Highway Authority wishes to raise an objection until the issues set out above are resolved".

27/08/24: Double yellow lines (following submission of new plans for double yellow lines or build out)

"... The double yellow line option is ok (it may be possible to reduce the length of the DYL to the northern end of the speed cushion (the speed cushion isn't shown on the drawing) and perhaps some improved signing / lining/ Speed Indicator Device) ..."

04/09/24: Streetlighting

"... Yes, to meet adoptable standards street lighting will need to be installed. I would say yes, the link to the future growth area would need to be lit to encourage safe access for all users ..."

01/10/24: Streetlighting (following submission of lighting plan)

"See below for comments from our Lighting Team..."

Yes all seems to be ok, contact Iain Mansfield at Holophane, I am sure would be happy to provide the design. If you could mention that we would request Holophane S-Line luminaires programmed with Torbay's dimming regime as below. Ideally fitted on 6 metre columns CU Phosco galvanised steel columns. DUSK - 22:00 = 100%, 22:00 - 00:30 DIM TO 70%, 00:30- 06:00 DIM TO 50%, 06:00 – DAWN = 100%".

Torbay Arboriculture:

15/07/24

"I have spoken with Dan and his comments remain unchanged.

The Tree Dominance Plan indicates some limited consideration has been given to retained trees in third-party land. This should have been addressed with professional arboricultural input as part of an Arboricultural Impact Assessment. Issues which have not been addressed are future pressure (to fell or prune) due to perceived risk. On this basis, Dan's comments requesting additional information have not been satisfactorily addressed as part of the planning submission".

09/09/24 (following submission of Arboriculture Impact Assessment (AIA), Tree Protection Plan (TPP) and Arboriculture Method Statement)

"I have checked the AIA produced by Devon Tree Services. This clearly states within section 5.7 "There are no works proposed within the RPA of retained trees therefore these matters have not been considered". This appraisal contradicts the proposal to 'hand trowel' foundations / structures within the RPA. Further clarification on the extent of any works within a tree RPA must be provided to ensure any potential damage

to third-party owned / protected tree is avoided or minimised. This information cannot be secured by a planning condition”.

02/10/24 – verbal discussion with case officer

No objection subject to conditions for recommendations in AIA and TPP to be followed and further planting details.

Torbay Drainage: Please see full response. Extract:

17/07/24

“... The Environment Agency flood maps identifies this development site as being located in Flood Zone 1 and not in an area susceptible to surface water flooding. The existing site appears to be overgrown with some tracks and no surface water drainage. It is likely that the field is compacted and is acting as an impermeable area during heavy rainfall. This would explain the surface water run-off from the field onto Edginswell Road that is shown on the photographs supplied [photographs provided by an objector showing flooding from the site, and also from Edginswell Farm, into Edginswell Lane]. Within the support documentation for the planning application the developer has identified that surface water drainage from the development will be discharged using infiltration techniques. By designing the surface water drainage for the development in accordance with the design standards the risk of flooding from the development site to Edginswell Road will be significantly reduced...”.

Summary Of Representations

Approximately 23 objections have received. Approximately 13 were received in respect of the initial proposals and approximately 10 have been received in respect of the revised proposals. It should be noted that several objectors have made more than one objection in relation to both the initial and revised proposals and so it should not be assumed that 22 different people have objected. It should also be noted that some objectors who responded to the consultations on both the initial and revised proposals have made it clear in their response to the latter that all of their comments relating to the former still apply. Officers have determined the current revised proposals on this basis and understanding.

INITIAL PROPOSALS

Works carried out so far

- Trees and historic stone wall were removed without consultation/licence, causing collapse of end wall of stone barns at Edginswell Farm. Archaeological evidence has also been lost. The new access onto Edginswell Lane has been made without Highways consent (there is an ongoing enforcement case).

Design

- Design is not of a hamlet character as recommended in Edginswell Gateway Masterplan and is sub-urban in character
- 5 dwellings are overdevelopment
- Contrary to Policy DE1 as does not achieve biodiversity net gain
- Proposed tree planting inadequate and does not provide enough screening

Amenity

- Proposals compromise amenity recreation/amenity of existing residents
- Occupants of existing houses would be able to look into gardens/habitable rooms of new houses and vice versa.
- Contrary to Policy DE3 due to noise, nuisance, visual intrusion, overlooking, privacy, air pollution, traffic increase, fumes, vibration, dust

Heritage

- Proposals would be detrimental to the setting of listed buildings
- Contrary to Policy SS10 due to lack of archaeological evidence

Transport

- Proposed access is opposite P&P lifts car park. P&P vehicles park on street and this will reduce visibility from the new junction and add to existing congestion caused by on-street parking by P&P Lifts vehicles
- Proposed access is on a narrow stretch of Edginswell Lane on a blind corner

- No public footpath to local bus services on Newton Rd or proposed rail station at Edginswell so people will have to travel by car
- Increased traffic on Edginswell Lane
- Edginswell Gateway Masterplan shows site served by pedestrian/cycle access onto Edginswell Lane only – vehicle access should not be allowed.
- Not clear where proposed footpath or cycle path would be
- Contrary to Policy TA2 as proposed access not safe
- Children living at new houses will not be able to walk to school safely
- Proposed driveway not wide enough for two vehicle to pass
- Not clear how construction vehicles would access site
- Lack of parking could lead to overflow parking on Edginswell Lane

Ecology

- Contrary to Policy SS8 due to tree felling and effect on foraging for lesser horseshoe bats (including a colony at Higher Court Farm) and birds and other wildlife.
- Proposal involves bio-diversity net loss.

Trees

- Concerns about damage to roots of veteran oak & Monterey Pine covered by TPO.
- Contrary to Policy C4 due to trees already felled.

Infrastructure

- Contrary to Policy H1 as existing sewer at capacity, GP surgery set to close, access to dental services limited
- Sewer serving Edginswell Lane already at capacity. Raw sewage has overflowed onto Edginswell Lane twice within last 12 months

Flooding

- Contrary to Policy ER1 – since woods felled there has been an increase in flooding along Edginswell Lane

Subsidence

- Contrary to Policy ER4 – there are sinkholes within site that have been filled by applicant. Also, underground cave systems that feed artesian wells at the Manor House, Edginswell Farm and Higher Court Farm
- Steep bank on northern boundary with Tydemans Reach could collapse when vegetation cleared

OTHER ISSUES

- Construction disruption
- Possible damage to boundary wall
- Removal of historic wall and creation of new access without permission
- Clearance of protected TPO trees
-

Officer note: Some degree of disruption is usually inevitable during construction. Conditions can be used to require a Construction Management Plan and to limit hours of work. It is not considered that the construction work required in this development is unusual and impacts can be dealt with and mitigated through standard conditions. Any damage to walls would be a civil matter that the parties would need to resolve between themselves. There have been several allegations that sections of the wall bounding the site and Edginswell Lane have been removed/lowered in height.

REVISED PROPOSALS

Design

- Design is not of a hamlet character as recommended in Edginswell Gateway Masterplan and is sub-urban in character
- Overdevelopment; 5 dwellings is too many
- Buildings will be too high in relation to listed barns
- Poor design – pastiche of commercial farm buildings

- Country to DE1, TH8, H1.9, TS2
- No relationship with adjacent historic buildings
- Access road over-engineered and leaves insufficient room for tree planting
- Number of new buildings, hard surfaced area and wide new access erodes green unspoilt qualities of the site and setting of listed buildings
- Loss of historic wall removed pre-existing sense of enclosure.

Amenity

- Overlooking to neighbours

Heritage

- Negative effect on setting of adjacent listed buildings
- Loss of section of historic wall bordering the site
- Concern that relocating telegraph pole could damage listed barn
- No archaeological survey was carried out during clearance works
- Removal of stone wall and earthworks is causing collapse of listed barn adjacent to site

Transport

- Insufficient parking and no visitor spaces
- No dedicated turning head
- Visibility restricted along Edginswell Lane and there are no pavements
- Insufficient information to determine whether buildings inside site near to access would restrict visibility
- Plans don't accurately show sight lines for visibility
- Increased traffic volumes
- New hazard involved with vehicles turning off and into Edginswell Lane
- Site opposite P&PP Lifts, which is already hazardous
- Traffic noise fumes and dust
- Site access remains unsafe
- Vehicles parked on Edginswell Road already restricts visibility
- Any planning permission needs to have measures to restrict parking on both sides of the access

Ecology

- Ecology survey doesn't capture wildlife that was present prior to clearance works
- Conditions needed to secure bat and bird boxes and hedgehog runs
- Effect on colony of lesser horseshoe bats at Higher Court Farm

Trees

- Clearance works have resulted in loss of trees and damage to tree roots
- Root protection for Oak and Monterey Pine trees
- Proposed gardens should not encroach over tree roots and conditions needed to prevent provision of any further buildings in gardens to avoid damaging roots
- Condition needed so that any new trees that die within 5 years are replaced
- Clearance works and tree removal means that there has been biodiversity net loss
- Effect on birds and other wildlife
- Submitted Arboriculture Impact Assessment doesn't identify that site is covered by a TPO, that site has been cleared of trees or need for protection for trees on northern boundary of site.

Infrastructure

- Concerns about sewer capacity

Flooding

- Surface water runoff from the site blocks roadside drains
- Existing problem with flooding from the site

Subsidence

- Presence of sink holes within valley
- Steep bank on border with no. 4 Edginswell Lane could collapse.

OTHER ISSUES

- Construction disruption
- Clearance of protected TPO trees
- Removal of historic wall and creation of new access without permission
- Road damage
- Revised application should not have been allowed to be submitted
- The applicant has signed a deed of contract with the Council for development of the site
- Site boundaries inaccurate as regards no. 3 Edginswell Orchard and Woodlands.
- Potential impact on stability of earth bank along northern edge of the site.

Officer note: Any damage to Edginswell Lane would be a civil matter between the highway authority and driver. Officers do not generally allow submission of revised plans during the determination of a “minor” planning application and will normally determine the application within the 8 week statutory deadline for minor applications. Officers can however choose to do this, albeit on an exceptional basis. Given the previous refusals at the site officers took the view that it was appropriate to allow the applicant to submit revised highways information and plans in order to give the applicant the best chance of being able to overcome the various challenges associated with the proposals. The determination period for the application has now stretched to well over a year. Officers acknowledge that this is far from ideal, and it is very unlikely that officers would follow this approach again. Nevertheless, officers do not believe that any procedural irregularity has occurred here. Officers are not aware of any “deed of contract” signed between the applicant and the Council. Lastly, if planning permission is granted, the applicant will need to resolve any boundary dispute issues and any damage that may be caused to the earth bank along the northern edge of the site with the parties concerned. Again, this is a civil matter; officers cannot consider this in determining the application.

Relevant Planning History

DE/2015/0458 Residential development PRE-APPLICATION ENQUIRY

P/2019/0750 Outline application for the formation of 5no. dwellings for access and layout. WITHDRAWN

DE/2019/0103 Residential development of 5 dwellings. PRE-APPLICATION ENQUIRY

P/2020/0929 Construction of five dwellings including access, parking and associated works. REFUSED

P/2021/0809 Formation of 5 dwellings including access, parking and associated works. REFUSED / APPEAL DISMISSED

Planning Officer Assessment

The key issues to consider in relation to this application are:

1. Principle of Development
2. Future Growth Areas
3. Housing Supply
4. Sustainable Development
5. Visual Impact
6. Impact on Heritage Assets
7. Amenity
8. Highways and Movement
9. Access
10. Parking
11. Ecology
12. Trees & Hedgerows
13. Ground Stability
14. Flood Risk & Drainage
15. Water Management
16. Climate Change

1. Principle of Development

The proposal seeks permission for “Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-establishment of orchard included in

project (plans amended 25 April 2024)". There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Future Growth Areas

Policy SS2 of the Torbay Local Plan sets out that a Future Growth Area is proposed at Edginswell. The Torquay Gateway (Edginswell) Masterplan shows on pages 24-25 illustrative maps that identify land near to the site potentially suitable for some limited future development: Policy TS2 of the Torquay Neighbourhood Plan sets out that Major development proposals within the town centre and Torquay Gateway areas will be supported where they contribute to meeting the objectives of the Torquay Neighbourhood Plan for these areas and they conform to the area wide Master Plans adopted by the Council as SPDs where those masterplans are in compliance with the policies of this Plan. Policy TH6 states that development proposals within the Edginswell Future Growth Area should be developed with consideration of the immediate surrounding communities of Shiphay, the Willows and Barton. Opportunities to provide transport connectivity as well as complement, augment and/or support the provision of community facilities and primary schools which serve the wider area are important considerations for creating an integrated sustainable community.

The Masterplan states on page 24 that:

“Edginswell Valley Proposal

4.10 Edginswell Valley Concept Plan and Illustrative Masterplan

Proposal 4.10 Edginswell Valley Concept Plan and Illustrative Masterplan Figure 13 shows the concept plan and Figure 14 shows the illustrative masterplan. This delivers circa 550 homes and 19000 sq metres of employment land, and has been designed to reflect the design intent identified in the following headings;

- Retain Edginswell Hamlet as a distinctly separate settlement
- Allow for some additional development in Edginswell Hamlet that respects the ‘Hamlet’ character
- Provide footpath & cycle access between the two areas ...”

The Masterplan makes it clear that a connecting link should be provided through the site to facilitate a future proposed walking and cycle link connecting development within the Valley to Edginswell Lane. The application provides for this link and the layout of the route is direct and legible. The access through the site and onwards to the valley should be secured as a bridleway with a public right of access so that access is not potentially impeded in the future. The Inspector found, in dismissing the appeal for refused application P/2021/0809 that:

“35. Connectivity along the Edginswell Valley is an important component of the SPD and for achieving a successful overall development for this identified Growth Area. As noted above, the appellant agrees with the Council that a cycle/pedestrian link should be provided through the appeal site. However, there is dispute between the main parties as to whether or not this matter should be dealt with by way of a planning condition or a section 106 obligation.

36. I note the Council’s argument that the proposed estate road should be adopted and that no ransom strip should occur within the appeal site that could frustrate the provision of the intended cycle/pedestrian link through the site. It would be unfortunate if this link did not materialise. The Framework, amongst other things, advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

37. If the intended cycle/pedestrian link was not provided through the appeal site this would frustrate important planning objectives. However, I see no reason why a suitably worded planning condition could not be used to secure the provision of this important facility. Such a condition would enable the development, in so far as it relates to a cycle/footpath link, to satisfy the provisions of LP policy SS2 and NP policies TS2 and TH6”.

With the above in mind, if planning permission is granted then officers will suggest the use of a planning condition to secure the provision of the pedestrian/cycle link to be kept in place for the lifetime of the development.

Officers therefore consider that the proposal is in accordance with Policies SS2, TS2 and TH6.

3. Housing Supply

Policy H1 of the Local Plan states that proposals for new homes within the built up area will be supported subject to consistency with other Policies and that proposals for new homes on unallocated sites will be assessed according to a range of criteria proportionate to the scale of the proposals.

The Council cannot demonstrate a 3 year housing land supply.

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). This means that Torbay must apply the presumption in favour of sustainable development in paragraph 11 of the National Planning Policy Framework (the NPPF). Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall.

The Development Plan (i.e. the Local Plan and the relevant 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 is in compliance with the Development Plan (when taken as a whole). Where the Development Plan is out of date, it retains its statutory force, but the focus shifts onto other material considerations particularly the NPPF and presumption in favour of sustainable development. Material considerations such as the Housing Delivery Test state that the presumption should be applied. 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. Accordingly, it is recommended that the presumption in favour of sustainable development is applied to applications involving the provision of housing.

It is important to note that the presumption cannot lawfully be treated as a sanction. Planning decisions must be made in the public interest, balancing all the relevant factors. Operation of the presumption gives greater weight to the provision of housing in the planning balance. The NPPF (11(d)i) indicates that permission should be granted unless either (i) conflict with specific Framework policies may constitute clear reason for refusal (these are set out in footnote 7 and include, SSSI, Local Green Space, National Landscapes, irreplaceable habitats, designated heritage assets (including archaeology) and areas at risk of flooding or coastal change); or (ii) any adverse 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 11(d)ii). Development plan policies are taken into account when assessing whether the harm caused would "significantly and demonstrably" outweigh the benefit.

The proposal would help to address the need to provide a range of homes and would contribute to housing delivery through the addition of five new houses. However, in this case, officers consider that the proposal would conflict with a number of key policies within the Development Plan and that the associated harm would significantly outweigh the benefits.

The proposal is therefore considered to be contrary to Policy H1 of the Torbay Local Plan.

4. Sustainable Development

Paragraph 11(c) of the National Planning Policy Framework states that "For decision-taking [sustainable development] means: c) approving development proposals that accord with an up-to-date development plan without delay"; Policy SS3 of the Local Plan states that planning applications that accord with policies in the Local Plan and Neighbourhood Plans will be approved unless material considerations indicate otherwise. Policy TS1 of the Torquay Neighbourhood Plan states that development proposals should accord with the policies contained in the Torquay Neighbourhood Plan, where relevant, unless material planning considerations indicate otherwise. Policy SS11 of the Local Plan sets out that development will be assessed against its contribution to improving the sustainability of the existing communities within Torbay, and that proposals that regenerate or lead to the improvement of social, economic or environmental conditions, particularly within Community Investment Areas (CIA), will be supported in principle.

Officers consider that the proposed development would have a neutral effect on the sustainability of the existing Edginswell hamlet as regards Policy SS11. The site is not in a CIA. The proposals would provide five high quality family homes. Officers do not consider that this of itself would significantly enhance or detract from the sustainability of the existing community within Edginswell.

In this case, officers consider that the proposals would conflict with a number of key policies in the Local Plan and Torquay Neighbourhood Plan as set out below under VISUAL IMPACT and IMPACT ON HERITAGE ASSETS.

The proposal is therefore considered to be contrary to Policy SS3 of the Torbay Local Plan and Policy TS1 of the Torquay Neighbourhood Plan.

5. Visual impact

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 DE4 states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. Further, that new development should be constructed to the prevailing height (the most commonly occurring height) within the character area in which it is located, unless there are sound urban or socio economic benefits to justify deviation from this approach. Policy TH2 of the Torquay Neighbourhood Plan sets out that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion. 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 proposal is for five new houses either side of a large, shared courtyard. Three houses on the north side of the site (units 1-3) would be arranged in a short terrace to form a "barn". The two houses on the south side of the site (units 4-5) would be semi-detached and designed to provide a "farmhouse". Officers understand that the proposed housing has been designed in this way in order to reflect a group of listed barns and a listed farmhouse to the south of the site.

Officers met with the applicant on 27/06/23 (via Teams) to discuss the proposals originally submitted with the applicant in respect of access and heritage (including the wall bordering the site) following negative consultee responses and neighbour objections. The applicant has since provided several rounds of information in relation to the access and provided revised plans for units 1-5 on 25/04/24. A second public consultation was carried out on these revised plans.

The revised plans differ from those originally submitted in that the position of the access into the site from Edginswell Lane has been moved further to the north to improve visibility. Additional planting has been provided along site boundaries to provide enhance screening. The proposed residents orchard has been expanded in area slightly. Some minor changes have been made to the layout of the back gardens for units 1-3. Small front garden areas originally proposed for units 1-5 have been replaced with small planters.

The ridge of units 1 and 2 has been reduced in height from approximately 7.9m to 7.5m. Glazing in the front and rear elevations of units 1 and 2 has been significantly reduced, particularly at first floor level, with previously proposed full height floor to ceiling windows replaced with more conventionally sized windows. The front and rear and side elevations of units 1 and 2 were originally proposed to be almost entirely clad in vertical timber cladding. The revised plans show all elevations now being largely faced with random rubble stone to better match the appearance of the listed barns at Edginswell Farm. The roof covering for units 1 and 2 remains standing seam zinc, of a colour to match the corroded corrugated iron roofs of the listed barns at Edginswell Farm. However, the original half hip design of the roof on its east side (facing Edginswell Lane) has been altered to more of a full hip design, again to attempt to match the appearance of the barns at Edginswell Farm.

Unit 3 has been substantially re-modelled. As designed originally, unit 3 had an identical appearance to units 1 and 2, resulting in a monolithic block type appearance to all three units. The revised design now deliberately introduces a design for unit 3 that contrasts with the appearance of units 1 and 2.

The ridge of unit 3 has been increased in height from approximately 7.9m to 8.15m. The roof design has been changed from a half hip design (at its western end) to gable ends on both sides. The roof covering has been altered from standing seam zinc of the same colour as units 1 and 2 to natural slate. Glazing in the front and rear elevations has again been significantly reduced, again particularly at first floor level. In contrast to units 1 and 2, unit 3 would be clad entirely with vertical timber cladding.

The design of units 4 and 5, forming the “farmhouse” at the site remains largely unchanged from the plans originally submitted. The most significant changes are that the roof covering for both units has been altered from standing seam zinc to natural slate and that, whereas the plans submitted originally showed the walls (front rear and sides) of units 4 and 5 being clad in random rubble stone, the revised plans now show the front, rear and sides of the building clad in rough cast render in a light colour. The two chimneys on either side of units 4 and 5 would remain clad in random rubble stone.

The position of units 1-5 remain unchanged, with units 1-3 forming a “barn” unit approximately 40m from Edginswell Lane at the eastern side of unit 1 and 73m from Edginswell Lane at the western end of unit 3 and in the region of 9.8m to 8m away from the northern boundary of the site. The combined footprint of units 1-3 remains at approximately 240sqm (including the single storey utility rooms at the rear of each unit).

The positions of units 4 and 5 also remains the same, with the eastern end of unit 5 being approximately 58m from Edginswell Lane and the western end of unit 5 being approximately 81m from Edginswell Lane and in the region of 7m away from the southern boundary of the site. The combined footprint of units 4 and 5 remains at approximately 190sqm (again including the single storey extensions for each unit at the rear of the site).

A bin store/general store between the eastern edge of unit 1 and Edginswell Lane would remain in place. A small “orchard” between the bin store/general store comprising “new specimen trees” has been increased in size from five rows of three trees (i.e. 15 in total) to six rows of three trees (i.e. 18 in total).

Officers consider that the revised appearance to units 1-3 in particular represents a significant improvement on the original design. Officers consider that the difference in roof heights and designs between units 1 and 2 and unit 3 and the changes to the materials pallet and roof designs that have been made introduce a new level of visual interest to the site and help to break up the somewhat monolithic appearance of units 1-3

Unfortunately, despite the clear progress to the design of the site that has been made, officers are still not able to support the proposals for the reasons set out below.

The proposed housing and layout

In dismissing the appeal for P/2021/0809 the Inspector found that:

“17. I recognise the attempt made by the appellant’s architect to incorporate some locally distinctive features into the finish of the proposed buildings and the proposed reinstatement of a section of roadside wall. However, the extent of the new buildings, hard surfaced areas, as well as the wide new access road that would carve through the centre of the site, would seriously erode the green, unspoilt open qualities of the site. Moreover, the layout of the new estate road with semi-detached and detached houses, together with the entrance radii, low roadside walls and the arrangement of the fruit trees [footnote10: The planting arrangement would be very different to the spacing and ‘grid formation’ of a traditional orchard], would have a suburban character that would contrast awkwardly with the adjacent listed buildings”.

The Inspector went on to say that:

“24. The unspoilt, green open qualities of the appeal site form an attractive part of the countryside around Edginswell and are an integral part of Edginswell Valley. Housing development on the appeal site would erode these qualities and the countryside setting of Edginswell. This would have an adverse effect upon the character and appearance of the area.

25. However, this valley has been identified within the development plan as being appropriate for accommodating necessary major growth. As noted above, the SPD and illustrative masterplan for the area also identify the appeal site as suitable for some new housing. Some adverse effect upon the character and appearance of the area is therefore inevitable in order to meet the housing requirements of Torbay, as set out within the development plan.

26. In releasing land such as the appeal site for housing, the development plan and the SPD also require new housing to be designed to a high standard, developing a distinctive character and, in the case of the appeal site, be sympathetic to the “Hamlet character”. I have already found above that some elements of the proposal would have a suburban character. This would not be sympathetic to the distinctive qualities of Edginswell or its “Hamlet character”.

27. The style and design of the proposed houses, including the height, scale and bulk, would not be too dissimilar to the Edginswell Orchard development alongside. It is not unreasonable for the appellant, especially given remarks made on her behalf in respect of an absence of design direction from the Council, to take this as a measure of what the Council is seeking to achieve.

28. It is beyond my remit to provide design guidance. Nevertheless, the style and design of the proposed houses would have little, if anything, in common with the distinctive qualities and the identity of the neighbouring traditional buildings. The access road also appears somewhat excessive/‘over engineered’ and with limited space for any meaningful ‘replacement’ tree planting. The proposal would detract from the character and appearance of the area”.

On balance, and notwithstanding the progress that has been made in terms of the design of units 1-3 officers consider that the current proposals amount to the overdevelopment of the site.

Having seen a number of design iterations in both the current application, and preceding applications, officers consider that it is unlikely that there is sufficient space for five dwellings of the scale currently proposed to sit comfortably within the site. All of units 1-5 significantly exceed Nationally Described Space Standards (see AMENITY below) and it appears that smaller units, or fewer units built to the same scale as the existing proposed units 1-5, would be more likely to provide a successful and attractive layout.

The current proposal turns all of the ground between the two proposed blocks over to hardstanding (excepting some very small planters outside of the fronts of the proposed housing). Officers consider that this, in combination with the proposed access driveway, would detract significantly from the green and open quality of the site to an unacceptable degree.

As noted above, in dismissing the appeal for P/2021/0809 the Inspector noted that:

“17. ...the extent of the new buildings, hard surfaced areas, as well as the wide new access road that would carve through the centre of the site, would seriously erode the green, unspoilt open qualities of the site. Moreover, the layout of the new estate road with semi-detached and detached houses, together with the entrance radii, low roadside walls and the arrangement of the fruit trees [footnote10: The planting arrangement would be very different to the spacing and ‘grid formation’ of a traditional orchard], would have a suburban character that would contrast awkwardly with the adjacent listed buildings]”

And that:

“24. The unspoilt, green open qualities of the appeal site form an attractive part of the countryside around Edginswell and are an integral part of Edginswell Valley. Housing development on the appeal site would erode these qualities and the countryside setting of Edginswell. This would have an adverse effect upon the character and appearance of the area”.

Notwithstanding the clear efforts that have been made to reflect the appearance of the adjacent listed buildings in the design of the proposed new houses officers consider that the scale height and massing of the proposed new housing is out of character with the semi-rural hamlet appearance of Edginswell Lane in the immediate vicinity of the site.

Officers consider that, despite the various design iterations that have been advanced over the years, the current proposals are still largely urban in character. The proposed new dwellings would have very small front garden areas and would have relatively small back gardens. As noted above, all of the space in between the two blocks would also be turned over to hardstanding and vehicle movements. Officers consider that this would necessarily give the proposed housing layout a modern urban appearance at odds with the semi-rural appearance of the wider area, and that the existing green open quality of the site would be compromised to an unacceptable degree as a result.

Officers remain concerned about the appearance of units 4-5. As noted below under IMPACT ON HERITAGE ASSETS officers consider that the over-domestic approach to these plots and the introduction of an additional building type with an additional material palette would be harmful to the significance of the identified heritage assets and would confuse the clear narrative and hierarchy of adjacent historic development of a singular principal farmhouse (the existing listed building) and its relationship with surrounding ancillary agricultural structures.

The submitted proposed section drawings show that ridges of units 2 and 3 would be set down approximately 7.9m from the ridge of Orchard Barn within the Edginswell Orchard site to the north of the site. The ridge of Units 4 and 5 would, however, be in the region of 3-5m above the ridges of the listed structures at Edginswell Farm to the south. Officers consider that the proximity of units 4 and 5 to the listed buildings at Edginswell Farm means that this proposed roof height means that units 4 and 5 would appear incongruous in relation to them.

A street scene drawing has not been included with the application. Officers have queried this with the applicant and while no street scene drawing has been submitted the applicant has provided CGI imagery which suggests that the proposed housing would be unlikely to be substantially visible from Edginswell Lane.

Officers are nevertheless mindful that a bridleway would run through the site connecting Edginswell Lane with the Future Growth Area, and so clearly, the proposed housing units would be fully visible from the public domain.

Officers have carefully considered the existing development at Edginswell Orchard to the north of the site which resembles in some respects the current proposals. Edginswell Orchard appears to have been granted planning permission in 2010 and comprises four large houses with garages arranged in a U shape around a central courtyard that is completely covered with pavements. Notwithstanding the similarities between the site under consideration here and the Edginswell Orchard site, the latter is largely screened from view from Edginswell Lane and is only substantially visible from the road providing access to it from directly outside. In contrast to the current site, the Edginswell Orchard site does not have a public right of way running through it (as the site under consideration here would have if consented i.e. making it more visible to members of the public); and is not in close proximity to the listed buildings at Edginswell Farm. It should also be remembered that the Inspector in dismissing the appeal for P/2021/0809 drew attention to the loss of green space associated with the proposals together with the overly suburban appearance of the design at that time. As set out above, officers consider that the current proposals would also erode the

existing green character of the site to an unacceptable degree and would also have an urban character at odds with the existing hamlet character of the Edginswell Lane in the vicinity of the site.

While it is clear that similarities between the existing Edginswell Orchard site and the current proposals exist, on balance, officers do not consider therefore that the Edginswell Orchard site provides a precedent for the current site such that it should be approved.

Separate to the layout, scale, form massing and appearance of the proposed units 1-5, the LPA believes that the boundary wall bordering the site, a substantial amount of which has already been demolished and lowered in height, is a listed structure as it adjoins one of the listed barns to the immediate south of the site. The applicant does not agree with this assessment (see IMPACT ON HERITAGE ASSETS below for further details).

Approximately 21m of the existing/pre-existing boundary wall either side of the proposed new access would be rebuilt or lowered in height to 60cm so that drivers leaving the site would be able to see over it.

Officers consider that the reduction in the height of the wall would necessarily reduce the existing sense of enclosure to the site. Officers have made it clear that the principle of reducing the height of the wall might be capable of being supported when weighed against the benefits that an acceptable housing scheme would bring i.e. new housing and a bridleway through the site connecting the Edginswell Growth Area with Edginswell Lane, but that the application would need to include an assessment of the impacts of the wall being removed/lowered in height in the context of the associated heritage impacts. The applicant has provided an Addendum to the submitted Heritage Assessment which maintains that the wall has no listed status but which also describes it as being a non-designated heritage asset. The LPA does not agree with this assessment and maintains that the wall is a listed structure. In the absence of a heritage assessment that identifies the wall as being a listed structure, or which allows for the possibility that the wall could be a listed structure, officers cannot therefore support the principle of altering the wall to create visibility splays at this point in time in relation to the visual impact that this would have (although this position could change if the afore mentioned assessment were to be provided).

With the above in mind, given the siting, scale, and design of the proposal it is considered that the proposal would result in unacceptable harm to the character or visual amenities of the locality.

The proposal is therefore considered to be contrary to Policies DE1 and DE4 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

6. 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 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.

Paragraph 205 of the National Planning Policy Framework (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.

Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Planning Practice Guidance states that "The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting".

Policy SS10 of the Local Plan states that development proposals that may affect heritage assets will be assessed in view of their impact on listed and historic buildings and their settings. Policy HE1 also states that development proposals should have special regard to the desirability of preserving any listed building and its setting.

The site is not in a Conservation Area. However, it is adjacent to and within the setting of a group of Grade II listed buildings to the immediate south known as Edginswell Farm.

As set out above, the Council's Principal Historic Environment Officer has set out that:

"... issues remains with the proposals for both plots 4 and 5, with regards to their position within the site and the chosen design approach to reference a 'farmhouse'. The over-domestic approach to these plots, the introduction of an additional building type with an additional material palette would be harmful to the significance of the identified heritage assets and would confuse the clear narrative and hierarchy of adjacent historic development of a singular principal farmhouse (the existing listed building) and its relationship with surrounding ancillary agricultural structures. It is considered that a more successful design approach which would potentially limit the harm caused to the identified designated heritage assets would be to continue the architectural language used for plots 1-3 and to explore the use of an 'L-shaped' form of development within the NW corner of the site which wraps around a central yard. This would allow the southern area of the site, which is considered to be the one of the most sensitive with regards to the setting of nearby heritage assets to be free of built development to provide a more substantial landscape buffer to the group of listed buildings. This would likely require a reduction in the quantum of proposed housing from 5 to 4 and would require significant alterations to the current proposals...."

Officers agree with this assessment and consider that the proposals; in particular units 4 and 5, would result in unacceptable harm to the setting of the Grade II listed buildings at Edginswell Farm.

As such the proposals, would amount to less than substantial harm to the designated heritage assets comprising the listed buildings at Edginswell Farm to the immediate south.

Officers recognise that the proposals involve five new houses and would help to address the current housing shortfall within Torbay. Also, that the proposals would provide the head of a bridleway connecting the Edginswell Future Growth Area to Edginswell Lane and that construction would create jobs for local people. However, officers do not consider that these public benefits are sufficient to outweigh the harm that has been identified.

Officers have also considered a section of boundary wall bordering the site alongside Edginswell Lane has been partially removed without listed building consent as well as a part of the wall which has been lowered in height, again without consent.

The applicant has argued that the wall is not listed. Paragraph 3.6 of the submitted Access and Design Statement states that:

"A low random rubble stone wall extends northwards from the point of access while only a small fragment of this wall remains abutting the Listed barns to the south-east".

The submitted Heritage Assessment states at paragraph 1.5 that:

"The boundary wall to Edginswell Lane

1.5 In the decision notice to the planning appeal (reference APP/X1165/W/21/3287683) for the most recent application for the site (Torbay Council reference P/2021/0809; see also Section 1.10 below) the Inspector noted public concerns over previous partial demolition of the boundary between the site and Edginswell Lane. Similar concerns had not previously been raised by Torquay Council in this or previous applications. No works are proposed to the boundary wall as part of the current scheme, and the status of the wall is therefore not considered further within this document".

The extract from the submitted heritage assessment above appears to be incorrect in so far as it states that “no works are proposed to the boundary wall as part of the current scheme” whereas the submitted plans show a section of 21m of the wall either being rebuilt or lowered in height.

As noted above, a recently submitted Addendum to the Heritage Assessment states that the wall is not listed but that it is a non designated heritage asset. The Addendum states that

“... the scheme also includes rebuilding a length of the removed boundary wall adjacent to the new entrance. This will be a heritage benefit offsetting the harm caused by the creation of the new entrance. Additionally, the design of the new entrance includes additional stone walling to the splays creating a sensitive approach into the development from the highway.

The works involve the removal of a short length of wall, impacting part of its architectural and historical illustrative values. However, this specifically relates to the length of wall to be removed, and these values in relation to the rest of the wall will not be impacted. Additionally, there will be no impact to its historical associative value or its setting, as the history of the site remains unaltered, as does the topographic and physical relationship of the wall with the highway and Brends Orchard. The restoration of the removed length of wall will enhance these heritage values”.

The Inspector found, in refusing application P/2021/0809 that:

“4. Interested parties have drawn my attention to access works at the entrance to the appeal site. Photographic evidence has also been submitted which shows a section of roadside (traditional stone) wall (attached to the Grade II listed calf house immediately adjoining the site) removed. The removal of this section of roadside wall would almost certainly require listed building consent. I am unaware of any accompanying listed building appeal and there is no information before me to indicate that any such application has been made”.

And

“15. Photographic evidence also indicates that the section of roadside wall that previously extended across part of the frontage of the site was a traditional feature that provided a pleasing sense of enclosure to the adjoining listed former calf shed, as well as to this part of Edginswell Lane. This wall also appears to have contained some important historic fabric and made a positive contribution to the significance of this adjoining listed building”

Officers have checked the file for P/2021/0809 and this does include photographic evidence of a wall running off of the side of the listed barn closest to the site and it is clear that a section of it has since been removed.

The Council’s Principal Historic Environment Officer has reviewed the Addendum supplied and has advised that:

“...As the updated assessment suggests, the level of harm caused by the loss of the section of walling should be weighed against the public benefits of the scheme. I would advise that this would cause a low level of ‘less than substantial’ harm which should be included with the other heritage harm identified – this would add further weight to be assessed against the public benefits of the scheme as the NPPF requires. The general duty for LPAs as respects listed buildings in exercise of planning functions will also be engaged which affords special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses ...”.

While there may be scope to accept the alterations to the wall, which the LPA considers to a listed structure, that have already been made, and any future alterations that may be needed to create the access and visibility splays to the proposed development, the LPA does not consider that the applicant has provided sufficient information with the application to enable any such assessment to be carried out.

As above, the status of the wall was raised with applicant through the Inspector's decision (P/2021/0809) and also at the meeting held with the applicant on 27/06/23 and through subsequent correspondence.

Officers consider that the application of policies in the Framework that protect heritage assets in relation to the harm to the setting of listed buildings and the loss of the listed boundary wall provide a clear reason for refusal and consequently the presumption in favour of development is disapplied (i.e. the "tilted balance" at 11(d)I of the National Planning Policy Framework).

With the above in mind officers therefore consider that the proposal is contrary to Policies SS10 and HE1 of the Torbay Local Plan.

7. Amenity

Policy DE3 states that development should provide a good level of amenity for future residents or occupiers and should not impact upon the amenity of neighbouring uses with reference to criteria including, noise, nuisance, visual intrusion, overlooking, and privacy, light and air pollution and the scale and nature of the proposed use where this would be overbearing. Policy THW4 of the Torquay Neighbourhood Plan states that new houses should have at least 20sqm of usable outdoor amenity space. Policy W1 of the Local Plan sets out that development proposals will be expected to make provision for the appropriate storage, recycling, treatment and removal of waste likely to be generated.

Amenity for future occupiers

- Unit 1 would have a Gross Internal Area(GIA) of approximately 129sqm with three double bedrooms and approximately 92sqm of usable outdoor amenity space.
- Unit 2 would have a Gross Internal Area(GIA) of approximately 129sqm with three double bedrooms and approximately 72sqm of usable outdoor amenity space.
- Unit 3 would have a Gross Internal Area(GIA) of approximately 130sqm with three double bedrooms and approximately 122sqm of usable outdoor amenity space.
- Unit 4 would have a Gross Internal Area(GIA) of approximately 159 sqm with three double bedrooms and one single bedroom and approximately 108sqm of usable outdoor amenity space.
- Unit 5 would have a Gross Internal Area(GIA) of approximately 159 sqm with three double bedrooms and one single bedroom and approximately 112sqm of usable outdoor amenity space.

All five units far exceed Nationally Described Space Standards (which call for a three bedroom, six person new dwelling arranged over two floors to have a GIA of 102sqm and a four bedroom, seven person dwelling arranged over two storeys to have a GIA of approximately 124 sqm) and would provide far more than the 55 sqm of outdoor amenity space for new houses recommended by Policy DE3 and the 20sqm identified in Policy THW4.

Outlook from the proposed new houses appears to be acceptable. Units 3 and 4 are approximately 18m apart from each other which is less than the 21m generally considered to be acceptable, but officers do not consider that this amounts to a reason for refusal here (i.e. through overlooking into habitable rooms).

A communal bin store is identified on the plans. SWISCO, which provides waste management services for the Council, has advised that

“ I note that the developer now proposes to build the road to adoptable standards and that it will be subject to a Section 38 agreement. Should the adoption of the highway not progress, a formal indemnity arrangement will be required before SWISCO would drive onto the site to complete collections. This will mean that each dwelling will be provided with individual recycling and waste containers, to be stored within

the curtilage of their own property and presented adjacent to the adopted public highway for collection. I believe that there is adequate space at each property to store waste containers, although I would expect the storage location and the collection point to be shown on submitted plans, to prove compliance with Building Regulations H6. I note the swept path analysis for the refuse collection vehicle, which has been submitted, but I cannot see how our collection vehicles will be able to turn on the adopted highway before leaving the site in a forward gear. Our collection teams would not reverse either on to nor off the site to complete collections and will require a sufficient turning head within the development ...”

Notwithstanding the above comments from SWISCO, the submitted swept path analysis drawings do show that a large refuse vehicle would be able to enter and leave the site in a forward gear. As noted above under PARKING below, conditions would be needed to ensure that the identified turning head at the site was marked out on the ground to prevent residential vehicles from parking within it.

As discussed under ACCESS below, officers consider that a Grampian condition could be used to require the installation of double yellow lines prior to the commencement of development at the site to ensure that the driver of a refuse vehicle (and other vehicles) would be able to see approaching vehicles before exiting onto Edginswell Lane.

Neighbour amenity

Objections have been made that the new houses would overlook, and be overlooked by, neighbouring properties; however, the closest properties to the site (to the north) would be approximately 22m-35m from the backs of units 1-3. Officers consider that this is an acceptable separation distance.

Officers consider it unlikely that any other significant neighbour impacts would occur.

Given its siting, scale, and design, it is considered that the proposal would provide future occupiers with a good standard of living and not result in any unacceptable harm to the amenities of neighbours.

The proposal is therefore considered to be in accordance with Policies DE3 and W1 of the Torbay Local Plan and Policy THW4 of the Torquay Neighbourhood Plan.

8. Highways and Movement

Policy TA1 of the Local Plan sets out the importance of sustainable transport and improving road safety. Policy TH6 of the Torquay Neighbourhood Plan sets out that Development proposals within the Edginswell Future Growth Area should be developed with consideration of the immediate surrounding communities of Shiphay, the Willows and Barton. Opportunities to provide transport connectivity as well as complement, augment and/or support the provision of community facilities and primary schools which serve the wider area are important considerations for creating an integrated sustainable community.

Advice from Torbay Highways dated 11/06/24 states that:

“Onsite Design

2.6 The following was stated in the previous Highway Authority response:

“... It is stated within the ‘Response to Highway Authority Comments’, dated April 2024, that “the access road is now designed to adoptable standards and will be subject to a Section 38 Agreement”. This is welcomed.

2.7 This remains applicable, however it is requested that the applicant submits a plan which shows the provision of adoptable street lights along the internal access road as this is a key route for the adjacent future growth area. Once this is submitted, the Highway Authority will recommend a condition that the proposed active travel route through the site to the growth area will remain clear and maintained until

adopted. The condition will also state that the highway details submitted which must accord with adoptable standards”.

The applicant has since provided a street lighting plan, which Highways have assessed as being acceptable.

With this in mind officers consider that the proposal is in accordance with Policy TA1 of the Torbay Local Plan.

(Note: officers do not consider that the location of the proposed development, or its scale, warrants refusal in relation to Policy TH6. Officers do not consider that the proposals, if granted permission, would affect the communities of Shiphay, the Willows or Barton).

9. Access

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 that schemes which require new access to/from the highway network will be supported where they provide vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility.

The proposed site access is constrained and would be located on a narrow stretch of Edginswell Lane. The submitted plans show that an existing telegraph pole sited between the wall of a listed barn at Edginswell Farm and Edginswell Lane to the south would need to be relocated and that the existing boundary wall along Edginswell Lane either side of the proposed access would need to be reduced in height to 60cm in height so as not to impede visibility splays from the new access in either direction.

Advice from Torbay Highways dated 11/06/24 states that:

“In the most recent response to this planning application the Highway Authority opted to recommend a ‘prior to commencement’ condition to provide double yellow lines in order to ensure the proposed access junction can be accessed by larger vehicle turning north (i.e. fire appliance / refuse collection).

2.2 However, concerns have been raised that the condition may not be implementable, and the planning process needs to be clearer.

2.3 Therefore, the Highway Authority are now of the position that a drawing needs to be submitted that shows the double yellow lines northwards out of the site access junction. In the event the associated double yellow line TRO is not implemented, a second drawing is required that shows a build-out or other suitable design feature in the location of the TRO that will prevent car parking to the immediate north of the access [this would then need to be delivered via a S278 – the design must be in line with relevant standards]. This second drawing requires a swept path assessment to be submitted to demonstrate a large vehicle can turn out the site and safely route pass the build-out/ designed feature [Note to applicant: a RSA S1/S2 will be required at the S278 stage should the build-out / design feature be required]. Until the above details have been submitted, the Highway Authority are unable to confirm a safe access arrangement can be provided that accommodates larger vehicles and therefore wishes to raise an objection.

2.5 Once details are provided and found to be satisfactory, the Highway Authority will recommend a Condition which sets out the need for the implementation of the TRO or build-out/design feature option prior to use of the permitted development”.

The applicant has since provided a drawing showing double yellow lines outside the site as well as the alternative option for a build out. The Council does not support the principle of a build out (a buildout is a physical structure in the highway sometimes used to prevent parking or to slow traffic by narrowing the width of the road) due to the urbanising visual appearance that this would have on this section of Edginswell Lane.

As such, double yellow lines are needed to prevent people from parking within the visibility splay of the new proposed access.

The process for installing double yellow lines involves the production of a Traffic Regulation Order (TRO). The Council would need to advertise the proposed location of the double yellow lines and would need to take account of any responses in making a recommendation to Councillors as to whether double yellow lines should be installed.

As regards the certainty of the delivery of double yellow lines it should be noted that the applicant's Highways Engineer stated in an email dated 29/01/24 that:

"... To the left parked cars may obstruct the nearside edge of the road and in this situation visibility is only required to the centre of the road to account for approaching vehicles from that direction. Double yellow line parking restrictions is not necessary and would require a Traffic Regulation Order which cannot be guaranteed as it requires a separate administrative process which is likely to be objected to by the owners of the parked cars. " (emphasis added)

As can be seen the applicant's Highways Engineer considers that double yellow line parking restrictions are not necessary and has also acknowledged that the delivery of double yellow lines cannot be guaranteed.

Notwithstanding this, officers have considered whether a Grampian condition can be used to require the installation of double yellow lines prior to the commencement of development at the site. In order for a Grampian condition be used an assessment is needed of the likelihood of the TRO being confirmed. Officers have discussed this with Torbay Highways and understand that there is a high likelihood of a TRO being confirmed. An assessment is also needed as to the adverse consequences associated with displaced parking where the double yellow lines would be. Officers note that there is limited space for parking on the side of Edginswell Lane to the south of the site and a greater potential for parking to the north of the site up to approximately the point where the A380 crosses Edginswell Lane.

With the above in mind, while officers are aware that a Grampian condition requiring the installation of double yellow lines does involve some risk to the Council (i.e. in the event that a TRO could not be confirmed), officers consider that this risk is very low and that it is acceptable.

As noted above the geometry of the proposed access has already been agreed.

With the above in mind, officers therefore consider that the proposed access is in accordance with Policy TA2 of the Torbay Local Plan.

10. Parking

Policy TA3 and Appendix F of the Local Plan states that new residential dwellings should be served by two parking spaces and that a new parking space should be provided for every two new bedrooms. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the 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.

The proposed plans identify that the courtyard area outside of units 1-5 would be shared. The proposed Block Plan shows space for two vehicles outside of units 1, 3 and 4. Whilst the plans only show one vehicle outside units 2 and 5 there would clearly be enough room for a second vehicle to park outside both units without obstructing the swept path details that have been provided for a refuse truck.

If planning permission were to be granted, then planning conditions would be needed to ensure that spaces were lined on the ground or otherwise identified so that it would be clear to all future residents where they

would be allowed to park. Similarly, the turning head for refuse trucks/fire engines would also need to be identified in some way so that residents did not park within it.

With the above in mind the proposal is considered acceptable with regards to Policy TA3 of the Torbay Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

11. Ecology

Policy SS8 of the Local Plan sets out that all development should have regard to its environmental setting and should positively contribute to the conservation and enhancement of the natural assets and setting of the Bay. Policy SS9 of the Local Plan emphasises the importance of integrating new development with strategic green infrastructure and of providing high quality green space at a local level. Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE4 of the Torquay Neighbourhood Plan sets out 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. Policy TE5 of the Torquay Neighbourhood Plan states that development of new homes, or a new commercial property on an unallocated site that could have an impact on a protected species or habitat must provide, as appropriate, an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Policy TE6 of the Torquay Neighbourhood Plan states that considering all stages of the construction process, all development within the Edginswell Future Growth Area or the Maidencombe area (including Sladnor Park) must have a Habitats Regulations Assessment as appropriate and be compatible with ecological requirements set out in the Habitats Regulations.

The site is within the Landscape Connectivity Zone for the South Hams Special Area of Conservation (SAC) with respect to Greater Horseshoe Bats.

A number of objections have been made in relation to ecology, including that the submitted ecological impact assessment is not valid since it assesses the site after it has been cleared. Also, that the proposals would have a negative effect on a nearby colony of lesser horseshoe bats and would involve a net habitat loss for flora and fauna.

The submitted ecological impact assessment report identifies that the site has limited ecological value, notwithstanding the presence of the nearby lesser horseshoe bat colony and recommends a variety of mitigation measures.

The report was prepared on 03/11/22 and so is still valid.

The report states at 6.3.1 that:

“It is highly probable that local bat populations forage and commute along the Site boundaries and although the Site boundaries are not considered to be a particularly important feature in the landscape, inappropriate lighting risks causing a barrier to foraging and commuting bats and may adversely affect the nearby lesser horseshoe bat roost. The Site boundaries will be kept dark for commuting and foraging bats and other nocturnal species, with a target illumination of <0.5 lux. This is especially important as there is a lesser horseshoe bat maternity roost present within 50m of the Site (to the north-east). The lighting scheme is based on principles set out in Guidance Note 08/18 Bats and Artificial Lighting in the UK (BCT/ILP, 2018):

The access road into the Site is not to be adopted, therefore there is no requirement for street lighting and light columns will not be installed ...”

Things have moved on since the report was issued and the current proposals do now propose the adoption of the road through the site. Torbay Highways advised on 11/06/24 (paragraphs 2.6 and 2.7 of corresponding advice note from WSP) that:

“2.6 It is stated within the ‘Response to Highway Authority Comments’, dated April 2024, that “the access road is now designed to adoptable standards and will be subject to a Section 38 Agreement”. This is welcomed.

2.7 This remains applicable, however it is requested that the applicant submits a plan which shows the provision of adoptable street lights along the internal access road as this is a key route for the adjacent future growth area.”

As above, the submitted ecological impact assessment emphasises the importance of limiting exterior lighting at the site so as to avoid disrupting bat foraging and assumes in drawings its conclusions that there will be no street lighting. However, as the road is now proposed to built to an adoptable standard Highways have identified that street lighting will be needed. Officers consider that this introduces an element of uncertainty about the proposals and that an update to the submitted ecological impact assessment would be needed to consider the location of the street lights that will be needed to bring the road up to adoptable standards and what type of lighting would be used”.

The applicant has since supplied a street lighting plan on 26/09/24 showing two lighting columns. A Senior Ecologist at Devon County Council commented on 04/09/24 that:

“ I haven’t had any further documentation regarding this application from the consultant ecologist. We spoke very briefly on the phone but I have not received any further information. It is highly likely that any street lighting for this development will not be acceptable from an ecological perspective given the presence of a lesser horseshoe bat roost adjacent to this site. That is one of the reasons why restrictions on lighting was so important – unless a full lighting strategy is submitted which evidences the introduction of street lighting will not impact upon this roost or bat commuting routes, I do not think I will be in a position to support the introduction of street lighting”.

And further on 26/09/24 in response to the submitted street lighting plan that:

“The plan is welcomed as it shows the location of the proposed lighting columns, but it still doesn’t provide any detail on the impacts of this lighting on ecology. As previously stated, a full lighting strategy which shows lux contours, along with comments from the consultant ecologist, is required for us to understand what impacts the integration of street lighting into this development will have on this site and crucially features used by light sensitive bat species known to roost in the locality. This plan is a good start, but does not go far enough to allow us to make a planning decision”.

Officers have queried these points with the applicant who advised on 01/10/24 both that:

“TC specifically requested that the road be adoptable in the event the cycle / footway up the valley is ever implemented. This is a consequence of TC’s Edginswell Masterplan and your aspirations for a sustainable travel corridor. It is not something that the applicant has specifically requested or designed. The natural consequence of this policy and TC’s requirement that the road be adopted is that street lighting is required. To suggest this is something the applicant has wilfully introduced at a later stage is a misrepresentation of the situation. We would much rather have an unadopted access road with no street lighting as the original application. This anomaly, therefore, only serves to highlight the contradictions in TC’s policy for the site but the emphasis seems to be on the applicant to resolve.

With regards your request to have detailed information submitted at this stage, we will of course endeavour to accommodate but in my experience this is at odds with other similar applications. I appreciate the date on which your email was sent but we were delayed by elongated original conversations between ecologists to establish the base requirements and brief such that we could respond with a suitable strategy. No one’s fault, just a reflection of the summer period and the involvement of several parties. We have done the best

we can but I'll keep on it and keep you abreast of any developments, notwithstanding your deadlines before Committee”.

And that:

“with regards lighting, the road was going to be adoptable (and therefore lit) for several iterations now in order to deliver the Active Travel Route and Torbay Council at the appeal recommended a condition to deal with a lighting strategy to tackle bat corridors (see attached) on that basis. Please remember it is the LPA who have planned for this Active Travel Route and the applicant is offering to deliver that public infrastructure to the Council gratis. Then having offered the free public benefit (notwithstanding that this development would not need the Active Travel Route to be acceptable in planning terms) and having agreed that a lighting condition was the approach at appeal, we are now faced with a level of detail (ie lighting design) that is normally addressed close to the point of installation”.

With the condition referred to being:

“Lighting

Prior to the commencement of development, a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. 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 has been implemented. This will include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with private residence. Such a scheme shall specify the method of lighting (if any) (including details of the type of lights, orientation/angle of the luminaries, the spacing and height of lighting columns/fixings), the extent/levels of illumination over the site and on adjacent land through the submission of an isolux contour plan and measures to be taken to contain light within the curtilage of the site. The development shall proceed in full accordance with the approved detail and no additional external or internal lighting shall be provided within the development at any time.

Reason: To secure an acceptable form of development in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and the advice contained within the NPPF”.

Officers have discussed these points with the Senior Ecologist at Devon County Council who has confirmed that:

“On reflection of the information submitted to the LPA in the form of the lighting strategy and the previous recommended conditions, I do now believe that sufficient information has been submitted to allow the LPA to better understand impacts on nocturnal wildlife. The introduction of two lighting columns is noted, but given the locations proposed and the number, it is believed that the detail of light spill can be secured as a pre-commencement condition, which will require the applicant to evidence how best practice guidelines have been followed with regards to bats and lighting, as well as how habitats which are likely used by bats are kept dark. Given this will be a pre-commencement condition, development cannot begin until that lighting information has been agreed with the LPA. We are aware of the lesser horseshoe bat maternity roost present to the north of the site, and will ensure that flight corridors for the species through the site are secured when discharging the pre-commencement condition”.

Also, that:

“Impacts to the South Hams SAC were screened out during my initial comments – no need for a HRA in this instance”.

With the above in mind the proposed development is considered to be in accordance with Policies SS8, SS9 and NC1 of the Torbay Local Plan and Policies TE4, TE5 and TE6 of the Torquay Neighbourhood Plan.

12. Trees and Hedgerows

Policy C4 of the Local Plan states that development will not be permitted where 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. Policy TE3 of the Torquay Neighbourhood Plan states that Development on established woodland will not be supported unless it is related to the sustainable management of that woodland and/or improved public access.

The initial proposals were revised by a Senior Arboriculture Officer at the Council who advised that:

“The site is accessed of Edginswell Lane between a residential complex and a number of what appear to be farm buildings. The majority of the significant trees and shrubs are located around the periphery of the site with the central areas overgrown.

The units are located to the west of the site with the access of Edginswell Lane and associated parking for the 5 properties to the front of each of the properties.

The tree protection plan 1271.1.TPP indicates the location of the tree protection fence. The concern with the layout is the potential for the offsite trees (T2 and T3) to be perceived as dominant, leading to unwanted applications for tree removal or substantial pruning particularly of the Pine tree.

The landscape plan shows the planting of an orchard to create a strong feature at the entrance to the site - this is welcomed. The remaining planting does not adequately bolster the existing hedgerows or provide boundary treatments that would enhance the hedgerows. Although hedgerow enhancement is discussed within the ecological assessment it is not apparent on the submitted landscape information.

Conclusion

The site is not sustainable from an arboricultural or landscape planting perspective.

Recommendation

Provide further planting to bolster the existing hedgerows to include planting densities, sizes and maintenance. Assessment of potential dominance of units 1, 2 and 3 by trees off site trees 2 and 3”.

The most recent proposals have also been reviewed by a Senior Arboriculture Officer who has discussed the original comments with the author and has subsequently advised that these comments remain valid:

“ I have spoken with Dan and his comments remain unchanged. The Tree Dominance Plan indicates some limited consideration has been given to retained trees in third-party land. This should have been addressed with professional arboricultural input as part of an Arboricultural Impact Assessment. Issues which have not been addressed are future pressure (to fell or prune) due to perceived risk. On this basis, Dan's comments requesting additional information have not be satisfactorily addressed as part of the planning submission”.

The applicant has since provided an Arboriculture Impact Assessment (AIA) incorporating a Tree Protection Plan (TPP) prepared by a professional arboriculture consultancy.

The Council's Senior Arboriculture Officer has again reviewed this document and has observed that it contradicts the previously submitted Tree Dominance Plan in so far as the AIA asserts (and demonstrates) that there will be no impact on the root protection area of TPO trees T2 and T3 whereas note 5 of the Tree Dominance Plan refers to “any foundation work in RPA hand trowelled”.

Officers have queried this point with the applicant and have discussed the issue with Council's Senior Arboriculture Officer. Having done so, and on advice from the Arboriculture Officer, officers consider that the AIA and TPP are acceptable. If planning permission is granted then conditions can be used to ensure that the build is carried out in accordance with the recommendations in the AIA; that the protective measures identified in the TPP are put in place prior to the commencement of works, and that further planting details are provided in respect of proposed hedgerows and the proposed orchard.

The proposal is therefore considered to be in accordance with Policy C4 of the Torbay Local Plan.

Officer note: Officers are aware from neighbour objections and historic imagery that the site once had significant tree cover. This tree cover was removed prior to the existing area wide Tree Protection Order covering the site being introduced in 2021, and as such officers do not consider that the proposal is contrary to Policy TE3. The applicant did not need planning permission to clear the trees from the site before 2021.

13. Ground stability

Policy ER4 of the Local Plan states that appropriate investigations and that remedial/precautionary measures will need to be agreed with the Council and that developer will need to demonstrate that any identified or suspected ground stability issues will need to be overcome in order for development to proceed.

Objections have been made that there are sinkholes at the site and that the steep bank at the northern boundary of the site might collapse if the development were to proceed.

Officers have consulted the Council's Structural Engineer about the proposals who has advised that the Council does not have any geological concerns about the site. If planning permission were to be granted and works caused damage to the boundary bank with properties to the north, then that would be a civil matter for the parties to resolve between them.

The proposal is therefore considered to be in accordance with Policy ER4 of the Torbay Local Plan.

14. 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. It is within Flood Zone 1 and is accompanied by a Flood Risk Assessment.

Objections have been made about existing issues with surface water flooding from the site entrance, and also the entrance to Edginswell farm to the immediate south onto Edginswell Lane and photos have been provided showing this.

Officers have consulted the Council's Drainage Engineer who has advised that

"... It is likely that the field is compacted and is acting as an impermeable area during heavy rainfall. This would explain the surface water run-off from the field onto Edginswell Road that is shown on the photographs supplied. Within the support documentation for the planning application the developer has identified that surface water drainage from the development will be discharged using infiltration techniques. By designing the surface water drainage for the development in accordance with the design standards the risk of flooding from the development site to Edginswell Road will be significantly reduced. ..."

As such, given the nature of the proposal, the intended means of surface water drainage (i.e. soakaways) are considered acceptable having regard to these comments and adopted Standing Advice. (This is for if it's over 20 square metres and they have ticked soakaways)

The proposal is therefore considered to be in accordance with Policy ER1 of the Torbay Local Plan.

15. Water management

Policy ER2 of the Local Plan sets out that development proposals must provide appropriate sewage disposal systems.

Objections have been made that the sewer serving Edginswell Lane is already at capacity and that raw sewage has emerged onto Edginswell Lane on a number of occasions.

South West Water is responsible for sewerage and commented on the initial proposals that "I can confirm South West Water has no comment or concern"

The proposal is therefore considered to be in accordance with Policy ER2 of the Torbay Local Plan.

16. Climate change

Policy SS14 of the Local Plan states that development will be required to minimise carbon emissions commensurate with their scale.

Officers consider that the proposal, which includes solar panels, double glazing and air source heat pumps, meets the aims of his policy.

The proposal is therefore considered to be in accordance with Policy SS14 of the Torbay Local Plan.

Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106/CIL

S106:

Not applicable.

CIL:

To be determined.

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.

BNG

Not liable give the date of the submission.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that significant adverse impacts will arise from this development. As such it is concluded that the planning balance is against supporting this proposal.

Conclusions and Reasons for Decision

The proposal is considered unacceptable, having regard to the Local Plan, the Torquay Neighbourhood Plan and all other material considerations.

Officer Recommendation

Refusal for the following reasons.

REASONS FOR REFUSAL

Housing & Sustainable development

The proposal would help to address the need to provide a range of homes and would contribute to housing delivery through the addition of five new houses. However, the proposal would conflict with policies DE1, DE4, SS10 and HE1 of the Torbay Local Plan and policy TH8 Torquay Neighbourhood Plan (the Development Plan) and the associated harm would significantly outweigh the benefits. The proposal is therefore deemed to be contrary to the requirements of Policies H1 and SS3 of the Torbay Local Plan and Policy TS1 of the Torquay Neighbourhood Plan.

Overdevelopment

The scale and extent of the five proposed dwellings, the proposed hard surfaced areas and access road amount to overdevelopment of the site and would seriously erode the landscape qualities of the site. The proposal is therefore deemed to be contrary to the requirements of Policy DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

Impact on landscape character

The siting, scale and design of the proposal would have an incongruous urban appearance out of character with the hamlet character of Edginswell in the immediate vicinity of the site. The proposals would have a negative impact on the open, green landscape qualities of the site which form an attractive part of the countryside around Edginswell. The proposed form of housing development would erode these qualities and the countryside setting of Edginswell. The proposal is therefore deemed to be contrary to the requirements of Policy DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

Impact on heritage assets

The proposed buildings by reason of their size, unsympathetic design, height and elevated position fail to preserve or enhance the setting of adjacent listed buildings at Edginswell Farm to the south and the rural setting of the area. The proposed buildings would be a prominent, intrusive and unsympathetic form of development which would result in less than substantial harm to the setting of the designated heritage assets. The public benefit of the provision of five residential units on the site is clearly outweighed by the visual impact on the adjacent heritage assets, harm to existing landscape features and the landscape character of the area. The proposed development does not, therefore, meet the requirements set out in the National Planning Policy Framework for the presumption in favour of residential development where the Local Plan is not up to date. The proposal is therefore deemed to be contrary to the requirements of Policies DE1, DE4, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan, the guidance contained in the National Planning Policy Framework and the requirements of section 66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990.

Insufficient information

The stone wall bordering the site on the west side of Edginswell Lane is a listed structure. Listed building consent is required for works that have already been carried out and any future works that would be needed to create a safe access into the site. The planning application does not contain sufficient information within a Statement of Heritage Significance to enable an assessment of the heritage impacts associated with alterations to the wall to be carried out. The proposal is therefore deemed to be contrary to the requirements of Policies DE1, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan, the guidance contained in the National Planning Policy Framework and the requirements of section 66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning balance

The benefit of the provision of five residential units on the site is clearly outweighed by the visual impact on the adjacent heritage assets and harm to existing landscape features and the landscape character of the area. The proposed development does not, therefore, meet the requirements set out in the National Planning Policy Framework for the presumption in favour of residential development where the Local Plan is not up to date.

Application Site Address	12-14 Victoria Street Paignton TQ4 5DN
Proposal	Change of use from offices (Class E) to 12no residential flats (Class C) with external alterations including two dormer windows.
Application Number	P/2024/0293
Applicant	1stavenue.co.uk LTD
Agent	Charles Blake Associates
Date Application Valid	18.07.2024
Decision Due Date	17.10.2024
Extension of Time	N/A.
Recommendation	Approval: Subject to; <ol style="list-style-type: none"> 1. The conditions as outlined, with final drafting delegated to the Divisional Director of Planning, Housing and Climate Emergency. 2. Legal agreement to secure a Berry Head ecological mitigation payment of £1,620. 3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones



Site Details

The site is located in Paignton Town Centre and consists of an end-of-terrace building set on a corner plot facing Victoria Street to the front, with Commercial Road to the side and a service lane to the rear. The plot is fully covered with the building and presents a varied height of three and four storeys.

The site sits within the Old Paignton Conservation Area and the building is identified as a 'key building' of architectural importance and part of a wider 'important building group' within the Old Paignton Conservation Area Character Appraisal.

The site has two established commercial uses with Boots operating over the ground and lower ground floors, and with the three upper floors being operating as offices prior to the use ceasing approximately 10 years ago, having most recently been occupied by a solicitor's firm.

In terms of the building form, the front of the building facing Victoria Street dates from between 1870 and 1904 and has three principal floors together with further internal useable space within a slate-finished mansard roof, which is inset with small dormers. Walls are finished in stucco render and upper floor windows are timber sliding sash set within ornate detailing. The ground floor walls are interrupted to the front and side with large elements of modern commercial glazing. Behind this main element of the building a later wing fronts Commercial Road to the side, which then turns the corner to the rear service lane. This rear element is initially subordinate in scale where it presents two principal storeys and a mansard roof storey inset with small dormers, before rising where it turns the rear corner of the plot. Walls are again rendered and windows are largely timber sliding sash, but less grand in scale and absent of ornate surround or glazing bar detailing. The window detailing towards the rear is more varied and modern in form, with a mix of materials and styles, and the rear elevation includes commercial access points within the partial lower ground floor.

In terms of local character, the site clearly sits within the commercially dominant town centre, however the area does include residential uses within upper floors of buildings and within nearby roads.

Description of Development

The proposal is for change of use of the former office space at first, second and third floors to provide 12 flats, 8x1-bed and 4x2-bed, which range from 38sqm to 68sqm in terms of internal floor area.

A number of external changes are proposed which include two new dormers at roof level, replacement of modern casement windows towards the rear of the building, retention and refurbishment of all timber sliding sash windows (with secondary glazing fitted internally), and minor works to create a new emergency exit door to the side from the new staircase, and creation of the residential access points to the side and rear, and waste and cycle storage. The provision of these revised access and storage points presents some minor changes to the internal floor area of the retail unit through the provision of a replacement staircase across 'back-office' basement space and ground floor shop space.

For clarity there is no off-road vehicle parking or outdoor amenity space proposed, as the building covers the entirety of the site.

Revised plans have also been submitted through the course of the application to address concerns on the cycle and waste storage areas, and to also retain the timber sash windows

within the side/rear element of the building to address concerns in terms of design and visual impact.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published standing Advice
- Section 72 of the Planning (List Building and Conservation Areas) Act 1990 requires that Local Planning Authorities pay special attention in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

Relevant Planning History

None.

Summary of Representations

1 objection with concerns regarding:

- Lack of parking.
- Overdevelopment.
- Impact on local doctors.

Summary of Consultation Responses

Principal Historic Environment Officer

No objections to the proposals and would just ask that a condition be included to secure external joinery details.

Supplementary comment that the timber sliding sash windows should be retained where possible or replaced on a like-for-like basis. Upvc casement windows are not supported to the rear of the main building or within the public facing elevations of the side and rear additions where timber sash windows are present.

Highway Authority (SWISCo)

The site is located in a sustainable location and no changes are proposed to the local highway or existing access arrangements.

However, no cycle parking design details have been provided. This is essential as the site is car-free. This must be clarified before the Highway Authority is able to raise no objection to the proposals.

A Construction Traffic Management Plan is required to be submitted prior to construction works taking place. This would be sufficiently covered by planning condition attached to any planning consent granted.

As the proposals are car free, ensuring future residents of the proposed site are able to travel on a high-quality sustainable transport network is essential.

There is some uncertainty around the proposed cycle storage where 2 stores are noted in supporting documents but 2 are not shown on the plans. a further review is needed and the applicant must ensure these cycle parking spaces are easily accessible, not impeded by doorways or stairs and of suitable size for manoeuvring cycles.

The Highway Authority will seek the necessary S106 planning contributions that are essential to make the scheme acceptable in planning terms.

Waste and Recycling Officer (SWISCo)

The initial arrangements proposed for recycling and waste are not adequate for the number of proposed properties at this development, and based on this there is an objection to this development.

Request a formal waste management plan for this development, which details the full arrangements for recycling and waste at the development; scaled plans showing that the bin store can fit the bins and that there is adequate space for them to be useable for residents and collection teams; how the shared bin store will be managed once the development is operational; and how the requirements of Building Regulations document H6 are being met.

Request Waste Management Contributions for this development, in line with the table below. As a communal recycling and waste arrangement is proposed, I would seek the higher rate of contributions.

Torbay Council Drainage Engineer

No objections on drainage ground to planning permission being granted, the site is in Flood Zone 1 and the planning application relates only to a change of use for the upper floors.

Devon County Council Ecologist

No objection. Recommend a planning condition to secure the recommendations contained within the submitted ecology report.

Torbay Council Community Safety Officer

No objection.

Police Designing Out Crime Officer

Note that the Design and Access Statement (DAS) includes reference to Designing Out Crime. Offers that if a Secured by Design award is being sought that this is incorporated at the earliest opportunity and assistance is possible.

Consultation offers further advice that the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision-making process for the planning authority, for the applicant to inform redevelopment detail.

Secured by design comments:

It is noted that the existing structure has numerous recessed doorways which provide access into the building, it is recommended that these are removed where possible as recessed

doorways can create a concealed and sheltered area which can provide cover for criminal activity, unwanted loitering and impede on natural and formal surveillance.

It is recommended that a visitor door entry system and access control system is installed.

All communal areas should have 24 hour lighting (switched using a daylight sensor formally called photoelectric cells), this can be dimmed at hours of low occupancy.

The expectation that all doors at the entrance to the building and all ground floor, basement and other easily accessible windows, will be units manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24, is welcomed. It is recommended that all ground floor and easily accessible windows should also be fitted with window restrictors to prevent reach in burglaries where the offender reaches in an open window and steals anything within reach.

It is welcomed that the plans show the inclusion of the proposed post boxes. Due to the potential disputes and crime associated with post and or parcels with apartments and multi occupancy buildings. It is recommended this is within an access control area, ideally covered by CCTV.

The bicycle rack system should be certified to one of the standards listed within Secured By Design Homes Guide 2024 section 32.6.

A clear management and maintenance policy should be in place prior to the occupancy of any part of the proposed building to ensure that communal areas are maintained and where damage occurs, repairs are undertaken within a suitable time frame especially where the security of the building is affected.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Housing Supply
3. Design and Visual Impact (Including Heritage Impact)
4. Residential Amenity
5. Highways and Movement
6. Ecology
7. Flood Risk and Drainage
8. Low Carbon / Climate Change
9. Secure Design

1. Principle of Development

The site is principally that of town centre disused upper floor office space, it has been empty for approximately 10 years, hence a brownfield site. It sits in an area where there is a strong commercial character, but a mixed commercial and residential character on upper floors. As a town centre site, it sits well-located in terms of access for shops, services, employment opportunities and transport options.

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

90). The NPPF also promotes the effective use of land in meeting the need for homes and other uses, and also guides that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and promotes support for the development of under-utilised land and buildings, especially where it would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops) (Paragraph 124).

In terms of the local Development Plan the principle of residential development is supported considering the sites brownfield character and its well-located urban location. Central guidance is offered in Policies SS3, SS12 and H1 of the Torbay Local Plan, supporting proposals for new homes in the built-up area (subject to wider policy consistency) and promoting the re-use of brownfield land, and the need to provide homes and meet housing needs. In terms of the Paignton Neighbourhood Plan Policy PNP1 offers broad support for development proposals to help meet housing needs and for the provision of additional homes by the conversions of existing buildings, or the more efficient use of vacant buildings in all use classes. Policy PNP2, which relates to the town centre, offers positive support for proposals that improve vibrancy and increase residential accommodation within the area. Policy PNP16, which relates directly to Victoria Street, also guides support for proposals that enhance the vitality and viability of the area, including where proposals make more efficient use of vacant floors at upper levels to facilitate the delivery of residential units.

In terms of general principle having regard to the policy framework outlined above the provision of town centre residential units is supported generally. It is also supported in this particular context, where it presents a sustainable location for housing and a good use for the empty upper floors of the building, which will also through its use increase the vibrancy and vitality of the town centre.

For the reasons above the principle of the change of use is considered to be comfortably 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 and H1 of the Torbay Local plan and Policies PNP1, PNP2 and PNP16 of the Paignton Neighbourhood Plan. The principle of residential conversion of the upper floors is supported.

2. Housing Supply

The Council is currently falling short of a 3 and 5-year housing land supply and that the proposal would make a moderate contribution to this shortfall being addressed as a windfall brownfield development. Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall. This housing supply context means that Torbay must apply the presumption in favour of sustainable development as required by Paragraph 11 of the NPPF.

The 'tilted balance' guides towards granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. However, as previously stated within Section 1 of the Officer Assessment, the principle of residential is supported for the reasons stated.

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.

Having regard to the NPPF and the 'tilted balance' there is a clearly stated government objective of boosting the supply of housing. There is also a pressing need for housing in Torbay. In addition, in accordance with Section 1 of the officer assessment, there is also broad policy support for the principle of housing within the upper floors in this location. All these matters weigh in favour of the development.

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).

As concluded within this report neither of the above positions are breached in order to signify the proposal should be refused. The provision of housing and the local housing supply context weighs heavily in favour of the grant of planning permission.

3. Design and Visual Impact (Including Heritage Impacts)

Achieving good design runs through national guidance where the NPPF outlines that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development (Paragraph 131). Guidance furthers that developments should be visually attractive, be sympathetic to local character (whilst not preventing or discouraging innovation) and maintain a strong sense of place (Paragraph 135). Similar design expectations are engrained within the Development Plan through Policies SS10, SS11 and DE1 of the Torbay Local Plan, and through PNP1 and PNP1(c) of the Paignton Neighbourhood Plan, which seeks development to enhance and strengthen local identity.

As the building sits within a designated heritage asset, the Old Paignton Conservation Area, and where it is identified as a key building and part of an important building group within the Conservation Character Appraisal, heritage policy guidance is also relevant in terms of the proposals impact upon both the building (as a non-designated heritage asset) and the Old Paignton Conservation Area (as a designated heritage asset). The general thrust of policy guidance within the Development Plan and NPPF is for development to sustain and enhance character, to take opportunities to remove Page 139 features, and to give great weight to

the conservation of assets within the decision-making process. In addition, Section 72 of the Planning (List Building and Conservation Areas) Act 1990 requires that Local Planning Authorities pay special attention in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

As a summary there are a number of external changes to the building, which include the addition of 2 (small) dormers within the roofscape, ground and lower ground floor amendments to support the creation of access points and required ancillary storage space, and to provide revised fire escape provision for the retained ground floor retail unit. The proposals also include the replacement windows, which through revised plans presents a reduced extent of change to that originally proposed. The scheme now retains all timber sliding sash windows (so now includes the retention of those within the rear wing), with these being refurbished and fitted with secondary glazing, and proposes replacement windows to be limited to replacing single glazed metal casement windows to the towards the rear with Upvc double glazed casement windows. The proposals also include the provision of solar panels on the flat roof of the rear wing.

The application is supported by a Heritage Assessment that states that the proposal has been designed to conserve the significance of the heritage asset(s) and setting by;

- The two dormer windows have been designed to match those already existing and have been positioned to align with existing openings. Materials will match those existing.
- Replacement doors/windows will complement the existing architectural style of the building and be of similar materials to those found on the building and locally nearby.
- The proposed use will require minimal external alterations and as such there is no material effect on the visual character and appearance of the conservation area.

The justification for the works is offered in terms of presenting minimal external changes that are required to enable safe access and egress from the building and to introduce natural light to residential spaces to promote a positive and healthy living environment. It is further added that there is a public benefit through the re-use of the building to provide small housing units that are needed in the area.

In terms of the key elements the proposed dormers are considered acceptable as small additions to a roofscape, suitably scaled and detailed, where dormers are more widely present and characteristic in the locality. Materials should match and can be conditioned as such. Refurbishment of the timber sash windows within the ornate openings towards the front of the site is supported, where this retains key historic fabric. The removal of timber sliding sash windows around the side and rear of the building and their replacement with Upvc casement windows was not supported. This concern has been positively addressed and these windows are now retained and are to be refurbished and fitted with internal secondary glazing. This change is a positive response to the broad policy position on the requirement to conserve or enhance, and to take opportunities to better reveal significance. Away from the timber sash windows the use of Upvc casement is considered acceptable subject to detail design elements being agreed. Finally in terms of the ground and lower ground floor changes to facilitate essential elements of residential occupancy, i.e. access and ancillary elements such as waste and cycle storage, there is some minor harm from the increased presence of openings punctuating the public-facing walls, however these elements appear suitably detailed and the ambitions for the material choice is supported, where timber is predominantly detailed. The minor harm is justified to facilitate the efficient use of the building and to support the provision of housing as part of a wider judgment on the change of use. Solar panels are proposed for the flat roof of the side/rear wing, the location appears suitable however some scrutiny is required on the form and height of these,

which can be secured by condition, to ensure no undue visual prominence in a sensitive context.

All matters considered the proposals are supported from the design, visual and heritage impact perspective, subject to some scrutiny of the detailed design of replacement windows and new doors, and the detail of the solar array, as explored above. When considering policy guidance, the proposal is deemed to be in accordance with Policies DE1, SS10 and SS11 of the Torbay Local Plan, PNP1 and PNP1(c) of the Paignton Neighbourhood Plan, and aligned with the guidance contained in the NPPF in terms of good design and heritage assets.

This conclusion takes into account the provisions of 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.

4. 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 Torbay 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 national space standards.

In terms of location the upper floor town centre setting is considered positive for residential occupancy moving forward, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options, which is all positive influences on a habitable environment.

In terms of the proposed units the proposed building will deliver 8x1-bed and 4x2-bed apartments ranging in size from 38sqm to 68sqm. All units meet or exceed the minimum National Space Standards, which are also engrained within Policy DE3 of the Torbay Local Plan, and key living spaces are also generally well scaled and proportioned and offered good levels of natural lighting. These aspects are positive influences in terms of future amenity levels for occupiers.

In terms of outdoor amenity space guidance is offered in Policy DE3 of the Torbay Local Plan, with a guideline that flats or apartments are supported by no less than 10sqm per unit of outdoor space either privately or communally. The development does not provide outdoor amenity space, but this is not uncommon for town centre upper floor conversion schemes, where constraints often limit such opportunities. In the context the town centre location and the site's obvious constraints to the delivery of outdoor space, whilst also appreciating the access available to central parks and open spaces, the lack of outdoor amenity space is considered acceptable within a wider judgment on amenity levels and the quality of the living environment.

In terms of key ancillary elements cycle parking, which has been enhanced following the receipt of revised plans, is to be provided in a safe and secure facility to the side of the building at a level in accordance with policy guidance (1 space per apartment). The revised cycle parking is considered adequate. In terms of waste provision initial concerns regarding the access distance to, and the size of, a single waste facility has been positively responded

to and revised plans have been submitted to show two waste storage areas located near to each of the entrance points. The location and capacity of the waste storage areas is considered acceptable. As the waste storage areas are designed for commercial sized bins and are located within the building a private waste collection service would be necessary and considering this a planning condition to secure details of waste management is recommended. This is to ensure suitable collection and recycling arrangements are achieved.

In terms of potential impacts on neighbouring amenity residential occupancy of the upper floors as a general use would sit comfortably aside the commercial and residential uses nearby and is not expected to present any undue noise or disturbance in the locality. In terms of intervisibility and privacy the more continued use of the building for residential occupancy would not present any undue harm from existing openings or the new dormer openings, where outlooks are largely not sensitive to such change. Intervisibility across the service lane, Commercial Road, and the Victoria Street to upper floor openings reflects locally characteristic relationships and their does not appear any unduly close and sensitive levels of intervisibility. This position is also concluded for the 'inward' facing relationships out of public view.

Having regard to the expected amenity levels provided within the proposal for future occupants and the future relationship of the development with adjacent plots and neighbouring occupants, the scheme is considered sufficiently aligned with the aims and objectives of Policies SS11, DE1 and DE3 of the Torbay Local Plan and guidance contained within the NPPF.

5. Highways and Movement

In terms of context the proposal is set in the town centre and does not propose any parking facilities. It does propose cycle parking within a secure facility. There is no clear opportunity for parking within such a constrained site, which is noted.

Policy TA1 of the Torbay Local Plan presents a general emphasis on promoting sustainable modes of transport, promoting development in areas that reduce the reliance on unsustainable modes such as cars, and offers that development is designed to reduce car use wherever possible. Policy TA3 of the Torbay Local Plan, supported by Appendix F, presents the parking standards expected for different development types and details that residential apartments should generally be supported by 1 parking space and 1 cycle parking space. Within the notes for dwellings there is acceptance that parking levels can be reduced in locations such as town centres, and this guidance is considered relevant to apartments as well.

Considering the inherent site constraints that inhibit parking provision, and considering the sustainable town centre location, which offers good access to services, facilities and sustainable transport modes such as buses and train links, the lack of parking is not a concern, and a car-free development is considered acceptable. It is noted that the public representation states concern over the lack of parking, however the Highway Authority does not raise concern on this issue and there is policy guidance that clearly offers flexibility on parking provision within town centres. In the context the proposal appears a suitable use in a sustainable location that would not present any undue impact from an absence of parking facilities.

There is cycle parking facilities identified within the layout and the facility has been improved in terms of design and usability through positive and proactive discussions with the agent, resulting in the subsequent receipt of revised plans. The revised provision is considered acceptable and is deemed to respond positively to the initial concerns of officers and the

Highway Authority and would now provide a suitable secure facility which will facilitate and promote cycle ownership and aid the potential for a car-free lifestyle.

In terms of short term impacts the construction phase has the potential to present a degree of impact in terms of the construction traffic etc. Such impacts can be duly managed to minimise any disruption, and this can be achieved by the placement of a pre-commencement planning condition on any grant of permission, subject to the agreement of the applicant.

In terms of other matters, it is noted that the Highway Authority seeks the necessary S106 planning contributions that are essential to make the scheme acceptable in planning terms, referencing sustainable transport obligations. As the proposal is CIL liable funding for community infrastructure is secured through CIL payment rather than a S106 legal agreement, unless for site acceptability matters. The identified obligation is not a site acceptability matters and hence it is concluded that the request cannot be furthered.

For the reasons above the proposal is considered acceptable on highway and movement grounds, providing development in a sustainable location with adequate cycle parking facilities, in accordance with Policies TA1, TA3 and DE1 of the Torbay Local Plan, PNP1(d) of the Paignton Neighbourhood Plan, and the NPPF.

6. Ecology

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 Policies SS12 and NC1 of The Local Plan and Policy PNP1 of the Paignton Neighbourhood Plan which includes area-wide guidance that development will not be supported if the proposal would result in an adverse impact on a European protected site.

There is limited ecological value within the site due to the full coverage from the building, however the supporting ecology report explores any sensitivity.

It is reported that the building contained no evidence of roosting bats and is classified as having negligible potential for roosting bats. It suggests no further survey or compensation measures are required.

In terms of nesting birds the report details that the flat roofed section is used by herring gulls for nesting and that the upper floor rooms and stairwell are used by pigeons for roosting. No evidence of pigeons nesting within the building was found however it is reported as being possible that they may do so in the future.

In light of the matters above the report concludes that works to the upper floors and roof should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately beforehand and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest. In terms of addressing biodiversity enhancement expectations engrained in policy the report also suggests enhancement measures for nesting birds, consisting of 6 sparrow nest boxes, with locations to be agreed. The findings of the report and the proposed mitigation is supported by the Devon County Council ecologist and hence, with suitable conditions to secure the stated outcomes, the general ecology matters are considered duly addressed.

In terms of wider ecological matters, the site is within the newly extended Berry Head Recreational Zone of influence, where Berry Head is part of a designated European Site.

Recreational use of the calcareous grassland at the Berry Head has the potential to cause degradation through scrub encroachment, erosion by walkers and eutrophication through dog fouling and new housing within the zone of influence therefore requires mitigation in order to manage the additional pressure on this habitat, in accordance with the Local Plan Habitat Regulations Assessment. This concluded that the impacts of qualifying developments on the SAC can be mitigated through developer contributions, which is set out in the Planning Contributions and Affordable Housing SPD. Due to its location the proposal would therefore constitute habitats development and a contribution of £135 per new residential unit is therefore required, which is £1,620 in total. This is a site delivery matter and requires securing prior to the formal grant of planning permission to make the development acceptable. If not secured it would warrant a reason for refusal.

As a further matter in England Biodiversity Net Gain (BNG) has been mandatory from 12 February 2024 under the Town and Country Planning Act 1990 (as inserted by the Environment Act 2021). This means that, subject to certain exemptions, development must deliver a 10% gain in biodiversity. In terms of this application the site is absent of habitat and is principally a change of use of a building with minor physical modifications to its exterior. The development is deemed exempt from BNG.

Subject to conditions secure protection to nesting birds during construction, and to secure nesting enhancements, and subject to securing the identified financial mitigation, the proposal is considered in accordance with the aspirations of Policies SS8 and NC1 of The Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

7. 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 local 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. 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 site is in a low-risk flood zone (Flood Zone 1) and is not in an area susceptible to surface water flooding, and if for the upper floor conversion of office space to residential apartments. From this it is concluded that a change of use to residential is not sensitive in terms of flood risk, and the risk of flooding will not be increased within the site or to land or buildings adjacent, where the extent of building is not changed on what is an urban site with 100% building coverage.

The council's drainage engineer offers no objection to the grant of planning permission on drainage grounds.

The proposal is considered acceptable on drainage and flood risk grounds. The proposal is considered comfortably aligned with the aims and objectives of Policies ER1 and ER2 of the Torbay Local Plan and the NPPF.

8. 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), and for new development to be planned in ways that can help reduce greenhouse gas emissions (Paragraph 159). The NPPF also guides that in determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels) (Paragraph 164).

In terms of the local Development Plan Policy SS14 (TLP) supports national guidance and seeks major development to minimise carbon emissions, and Policy ES1 (TLP) seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. Policy PNP1(f) (PNP) offers further relevant policy guidance towards a sustainable low carbon energy efficient economy for new development to aim to achieve, where appropriate and viable, on-site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible, and that solar arrays are encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area.

The Design and Access Statement submitted in support of the proposal includes an Energy Statement that outlines the strategy of being 'lean' (minimise energy demand through passive and active measures), being 'clean' (select the most energy-efficient heating and cooling infrastructure) and being 'green' (show intelligent use of renewable energy and technologies). In addition to the Energy Statement there is a Sustainability Checklist supporting the application which provides some additional commentary on the sustainability credentials of the development.

In terms of being 'lean' the submitted detail states that the project will adopt a fabric-first approach to include high levels of insulation to the walls and roofs, as well as being air-tight, that the dwellings will benefit from energy efficient LED light fittings with modern controls, and that all new windows will be double-glazed to reduce heat loss and carbon emissions. It also states that existing windows to be retained will have secondary glazing installed. Through positive and proactive discussions the ambition to replace 14 timber windows with Upvc windows has been revisited and all timber sash windows are now proposed to be retained, which itself reduces waste and the extent of new materials. In terms of other design elements the submitted detail includes the provision low volume taps and shower heads to reduce mains water consumption, and the potential provision of greywater use within the waste water systems.

In terms of being 'clean' the detail states that the flats will be heated using modern energy-efficient systems.

In terms of being 'green' the ambition is to secure renewable energy production as part of the conversion through the installation of solar panels to a large section of the flat roof. The development proposals include the arrangement of 48 panels which is expected to generate approximately 19kW of power. The proposition of solar panels is considered a positive response to the policy aspirations towards development including renewable energy sources with considerations of the context and constraints of the site. There is however no detail on the rooftop solar array and further detail would be necessary on this in terms of height and general form from a visual impact perspective.

The ambitions of the energy statement are supported and should be secured by a detailed planning condition, which also captures the delivery and detail of renewable energy solar array on the roof.

The development is, for the reasons above and subject to the detailed condition, considered suitable for approval, in accordance with Policies PNP1(f) of the Paignton Neighbourhood Plan, SS14 and ES1 of the Torbay Local Plan, and guidance contained within the NPPF.

9. Secure Design

The NPPF guides that decisions should aim to achieve buildings and places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion (Paragraph 96). Policy PNP1(g) of the Paignton Neighbourhood Plan states that all developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to “Designing Out Crime” Guidance. Similarly, Policies SS11 and DE1 of the Torbay Local Plan includes reference that schemes should help prevent and/or design out opportunities for crime and disorder.

The Design and Access Statement submitted in support of the application offers detail on designing out crime and states that all doors at the entrance to the building and all ground floor, basement and other easily accessible windows, will be units manufactured to a design that has been tested to an acceptable security standard, and that all external doors and easily accessible windows that are to be replaced will be sourced from a Secured by Design (SBD) member-company. It furthers that Secured by Design will be consulted further at the appropriate stage.

The Police Designing-Out Crime Officer was consulted on the application and has made recommendations intended to ensure that the proposal would be adequately designed to prevent opportunities for crime and anti-social behaviour. Officers recommend the use of a planning condition to secure a scheme of crime prevention measures.

Subject to the use of this planning condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and PNP1(g) of the Paignton 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

Housing provision is a driver of economic growth and there would be economic benefits of bringing the upper floors of this town centre site into use and into a residential use. Aside the longer-term economic benefits of local spend from occupants the conversion phase would also create jobs within the local economy. There are no adverse economic impacts that would arise from this development. The office space in the upper floors has not been used for 10 years and the provision of 12 households in a sustainable location will help local centre vitality and viability. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

The principle social benefit of the proposed development is the provision of housing within a long-empty upper floors within a very central and sustainable location. The proposed development presents a mix of small units which due to their location could be viable starter homes or homes for those wishing to downsize. Although the development predominately provides single occupancy flats there are larger units within the scheme suitable for more spacious single occupancy, couples or co-habitants, or small families, which does present some diversity within the scheme where there are a broad ambitions to promote mixed and

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

The Environmental role

The proposal presents a viable use for a long-empty floorspace and thus utilises the embodied energy of the structure, which weighs positively for the scheme. There are also proposed enhancements to the thermal efficiency of the building through the conversion process to modern building standards, and there are proposals to engrain renewable energy production with solar panels on the roof area. Timber windows are retained and refurbished, thus limiting waste and the requirement for new windows. Secondary glazing is also proposed to improve the thermal efficiency. The development is also car-free with no parking, which is considered viable for such a central location scheme and promotes car-free living for more sustainable modes of local transport. In terms of wider environmental considerations, the scheme will deliver enhancement nesting facilities for birds as a positive, and the potential impact upon Berry Head is proposed to be mitigated by a financial payment towards positive management, which is a neutral outcome. All matters considered in terms of the environmental element of sustainable development the balance is in favour of the development.

Sustainability Conclusion

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

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 land is situated in Charging Zone 1 in the Council's CIL Charging Schedule and the residential floorspace created would be CIL liable based on the information submitted as the floorspace has not been within a lawful use within the last 3 years. As chargeable development this means that all new floorspace will be charged at a rate of £30/sqm unless exempt.

Based on the submitted CIL form, which provides an indication and is subject to formal determination, the proposal includes 659sqm of CIL liable floorspace which would present which would present a CIL liability of £19,770.

Site Acceptability Matters:

Ecology mitigation of £1,620:

The site is within the Berry Head Recreational Zone of influence in terms of the designated European Site. Additional recreational pressure from all new residential development within the zone of influence is a site acceptability matter that requires mitigating to make the development acceptable on planning terms. On this basis a contribution of £135 per new residential unit is therefore required, which is £1,620 in total. The payment needs securing prior to the grant of planning permission by a legal agreement under S106 of the Town and Country Planning Act 1990. This is reflected within the officer recommendation.

Affordable Housing:

N/A for this scale of development on a brownfield site.

Sustainable Development Matters:

N/A as CIL liable development.

EIA/HRA

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

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

BNG

The site is absent of habitat and is principally a change of use of a building with minor physical modifications to its exterior. The development is therefore deemed exempt from BNG.

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 promote the reuse of brownfield sites and provide housing within sustainable locations would produce a positive impact overall and is in accordance with the development plan as a whole. It is also noted that it will also trigger CIL payment in the region of £19,770 towards community infrastructure.

Conclusions and Reasons for Decision

The proposed use of the site for residential purposes is considered acceptable, where it will provide much needed housing in a sustainable location, compatible with the wider commercial and upper floor residential character of the area. The loss of office space is not objected to where it is replaced with housing and where there is a critical need for housing.

The proposal will provide an acceptable standard of accommodation that is in a sustainable location with good local access to shops, facilities, schools, sustainable transport modes, and local parks, and would not unduly impact the amenity of adjacent uses/occupiers. The lack of parking is considered acceptable within the town centre location.

The external modifications to the building are considered acceptable subject to the proposed conditions for detailed design matters, which will enable compliance with policy expectations to conserve or enhance heritage assets and to seek ways to better reveal the significance of assets and giving these matters great weight within the decision-making process.

Ecology matters are deemed to be duly considered subject to conditions to secure enhancements within the building's external fabric and subject to the stated financial mitigation towards managing recreational pressures at Berry Head.

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

Consideration of the application of the presumption in favour of sustainable development (NPPF Paragraph 11) offers that developments proposals that accord with an up-to-date development plan should be approved without delay. Where out-of-date planning permission should be granted unless policies within the NPPF regarding protected 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. There is no impact or harm to protected areas or assets of particular importance subject to the matters identified, and there are no adverse impacts that significantly and demonstrably outweigh the benefits of the development.

Officer Recommendation

Approval: Subject to;

1. The conditions as outlined, with final drafting delegated to the Divisional Director of Planning, Housing and Climate Emergency.
2. Legal agreement to secure a Berry Head ecological mitigation payment of £1,620.
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

1. Construction Management Plan (Pre-Commencement and by agreement)

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

- a) Procedures for maintaining good neighbour relations including complaint management.
- b) The parking of vehicles of site operatives and visitors.
- c) Loading and unloading of plant and materials.
- d) Storage of plant and materials used in constructing the development.
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- f) 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.
- g) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
- h) The adoption and use of the best practicable means to reduce and control noise.
- i) 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.

j) Construction working hours from 08:00 to 18:00 Monday to Friday, 09:00 to 13:00 on Saturdays and at no time at weekends or bank holidays. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

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

Reason: In the interests of highway safety and the amenities of surrounding occupiers during the construction of the development, in accordance with Policy DE3 of the Torbay Local Plan 2012-2030. These details are required pre-commencement as specified to ensure that highway safety and neighbouring amenity is not harmed by building operations or site preparation.

2. Detailed Design windows and doors (Pre-installation)

Prior to the installation of any replacement window or new external door the following details, to a scale between 1:1 and 1:5 where appropriate, shall be submitted to and approved in writing by the Local Planning Authority;

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

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

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policies PNP1, PNP1(c) and PNP2 of the Paignton Neighbourhood Plan, and the NPPF.

3. Cycle parking provision (Pre-occupation)

Prior to the first use of the development the approved cycle parking facilities shall be completed and made available for the purpose of cycle parking to serve the development. Once provided, the cycle parking facilities shall be retained for the life of the development for such purposes.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030.

4. Waste provision (Pre-occupation)

Prior to the first occupation of the development the waste and recycling storage facilities shall be completed and made available for the purposes of waste storage to serve the development. The approved waste storage arrangements shall thereafter be retained for the life of the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030.

5. Waste Management Plan (Pre-occupation)

Prior to the first occupation of the development a Waste Management Plan (WMP) for the building, setting out recycling and waste collections methods which follow the waste hierarchy to ensure locally established recycling targets at the that time are met, together

with measures to review and respond to evolving targets, shall be submitted to and approved in writing by the Local Planning Authority. The approved WMP shall be implemented prior to the first occupation of the building and maintained at all times thereafter as a working document and strategy for the lifetime of the development.

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

6. Secured by Design (Pre-occupation)

Prior to the first occupancy of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

The approved measures shall be incorporated within the development in full prior to occupation of the development and thereafter be maintained and operational.

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

7. Energy / Low Carbon (Pre-occupation)

Prior to the first occupancy of the development the energy efficiency measures detailed within the submitted Energy Statement, including the provision of the solar panels serving the development, shall be implemented and operational in full prior shall be maintained thereafter.

Reason: In the interests of sustainable development and to minimise carbon emissions in accordance with Policy SS14 and ES1 of the adopted Torbay Local Plan 2012-2030 and Policy PNP1(f) of the Paignton Neighbourhood Plan.

8. Solar Array (Pre-installation)

Notwithstanding the submitted and approved plans prior to installation the precise location, height and general form of the solar array consented on the flat roof shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved detail without variance prior to the first use of the development.

Reason: To ensure that the solar array is, so far as is practicable, sited, arranged and designed, so as to minimise its effect on the external appearance of the building and the wider Old Paignton Conservation Area, in accordance with Policy SS10, SS11, DE1 of the Torbay Local Plan 2012-2030 and the NPPF.

9. Detailed Design dormers

The external material finish of the proposed dormer walls and roofs shall match, in terms of material, form and finish, the immediate host roofscape.

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policies PNP1, PNP1(c) and PNP2 of the Paignton Neighbourhood Plan, and the NPPF.

10. 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 Torbay Local Plan 2012-2030 and advice contained within the NPPF.

11. Ecology: biodiversity enhancement

Development shall be carried out in accordance with the actions set out in the submitted and approved Ecological Report (Sout West Ecology: Reference SWE 2081), dated 16th July 2024.

Prior to the first use of the proposed development the identified nest boxes shall be provided in full, in locations agreed in consultation with a suitably qualified ecologist, which shall then be maintained for their purpose thereafter through the life of the development.

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

12. Ancillary equipment

No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, tanks, satellite dishes and external lighting.

Reason: In the interests of the visual and general amenities of the area and in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030 and the NPPF.

Informative(s)

Working positively and proactively:

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.

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). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

Community Infrastructure Levy (CIL)

This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough.

CIL next steps required under the CIL Regulations 2010 (as amended):

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form.

The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development.

The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice.

The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure.

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

Further CIL information and Forms can be found at:

<https://www.gov.uk/guidance/community-infrastructure-levy#forms-andtemplate-notices>

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay

SS3 - Presumption in favour of sustainable dev

SS10 – Conservation and the Historic Environment

SS11 – Sustainable communities

SS12 – Housing

SS13 – Five-year housing land supply

SS14 – Low carbon development and adaption to climate change

TA1 - Transport and accessibility

TA2 - Development access

TA3 – Parking requirements

DE1 - Design

DE3 - Development Amenity

ER1 - Flood Risk

ER2 - Water Management

ES1 – Energy

W1 - Waste management facilities

W2 – Waste audit for major development and significant waste generating developments

NC1 - Biodiversity and geodiversity

C4 – Trees, hedgerows and natural landscape features

PNP1 – Area Wide

PNP1(c) – Design Principles

PNP1(d) – Residential Development

PNP1(f) - Towards a sustainable low carbon energy efficient economy

PNP1(g) – Designing Out Crime

PNP1(i) – Surface Water

PNP2 – Town Centre

PNP16 – Victoria Street

This page is intentionally left blank

Meeting: [Planning Committee](#)

Date: [14 October 2024](#)

Wards affected: [All](#)

Report Title: [Appeal Monitoring Report](#)

Cabinet Member Contact Details: [Councillor Chris Lewis. Cabinet Member for Place Development and Economic Growth and Deputy Leader of the Council.](#)
chris.lewis@torbay.gov.uk

Director Contact Details: David Edmondson. Divisional Director - Planning, Housing & Climate Emergency Place Directorate. David.Edmondson@torbay.gov.uk

Reporting Officer Contact Details: [Jim Blackwell. Service Manager – Development Management.](#) Jim.Blackwell@torbay.gov.uk

1. Purpose of Report

- 1.1 The report provides Members with information on the latest appeal decisions received. The constitution requires:

20. Reviews of Decisions

20.1 The Planning Committee will review, at least annually, a sample of the implemented decisions made by that committee to assess the quality of those decisions. Visits will be incorporated into the schedule of site visits arranged for that committee. The purpose is to improve the quality and consistency of decision making and will assist in reviews of planning policy and monitoring the quality of decisions as required by Best Value Performance Indicators. Members and officers will undertake reviews together and include consideration of whether there is a need to initiate a review of any policies or practices.

20.2 At quarterly meetings of the Planning Committee, the results of recent Planning Inspectorate decisions will be reported. A short report will be provided to identify whether the decision was a delegated officer decision, or one taken by the committee and briefly outlining the main issues.

2. Introduction

2.1 This report provides information on recent appeal decisions. Although all Councillors receive appeal decisions by email, the purpose of this report is to monitor and inform future decision-making. This will help ensure that future decisions benefit Torbay and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

2.2 Cost

It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where an application is refused against Officer advice, during this interim arrangement, the Divisional Director - Planning, Housing & Climate Emergency Place along with the Chair/Deputy Chair of Planning Committee will be required to assist in defending their decision at appeal. Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

2.3 Financial Summary

The cost of defending decisions at appeal is met by existing budgets. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

2.4 Risks

The key risk relating to appeal decisions relates to awards of costs against the Council. An appeal can be lodged by the applicant if planning permission is refused, or if planning permission is granted but conditions are imposed, or against the Council's decision to take formal enforcement action. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with major developments, which often require a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low. Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry can be very significant. These are infrequent, so the impact is considered to be medium.

3. Recommendation(s) / Proposed Decision

3.1. That Members note the report and Appendix 1 which includes the planning appeal decisions issued between 31 March and 30 September 2024.

4. List of Appeal Decisions

4.1: Application reference: P/2023/0849

Address: 36 Laura Grove, Paignton TQ3 2LR

Description of development: Side and rear extensions, and alteration to convert 36 and 36a to single dwelling.

Planning Inspectorate decision issued: 30 September 2024

Appeal reference: APP/X1165/W/24/3339167

Delegated decision

Main issues:

- Planning permission Ref P/2022/0359 was granted for side and rear extensions, and alteration to convert 36 and 36a to a single dwelling. It was subject to a number of conditions, including No 4 that required external finishes to match those of the existing building.
- A subsequent permission Ref P/2023/0849 was granted to vary the plans. This permission also contains a condition that deals with external finishes (No 4). However, it adds more by saying the cladding at the second floor of the east-facing gable end shall be removed and replaced with render to match the remainder of the house within 3 months of the date of this planning permission.
- The appeal is made directly against the imposition of condition 4 of P/2023/0849, as the appellant wished to retain the cladding. The Council contended that a planning condition is necessary to replace this cladding with a material of a colour to match the roof tiles (reddish brown), rather than render, as set out in the condition above.
- The main issue was the effect that varying condition 4 would have on the character and appearance of the area.

Decision: Allowed

4.2: Application reference: P/2024/0115

Address: 6 Horseshoe Bend, Paignton, Torbay, TQ4 6NH

Description of development: Extensions to front, side, and rear, and general re-ordering.

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3345235

Delegated decision

Main issues:

The main issues were the effects of the proposal upon the character and appearance of the host property and wider street scene, and upon the living conditions at 8 Horseshoe Bend, with particular regard to visual impact and privacy.

Decision: Allowed

4.3: Application reference: P/2023/0835

Address: 53 Bolton Street, Brixham, Torbay, TQ5 9BZ

Description of development: Proposed is a rear dormer loft conversion.

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3344162

Delegated decision

Main issues:

The main issue was the effect of the proposal upon the character and appearance of 53 Bolton Street and the Brixham Town Conservation Area, including also the setting of nearby listed buildings.

Decision: Dismissed

4.4: Application reference: P/2023/0835

Address: 63 Smallcombe Road, Paignton, Torbay, TQ3 3TJ

Description of development: Conversion of garage, and erection of a rear extension.

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3344162

Delegated decision

Main issues:

The main issue was whether the proposal would result in a net loss of parking provision having specific regard to the Council's car parking requirements for dwelling houses.

Decision: Allowed.

4.5: Application reference: P/2023/0845

Address: Hatley, 20 Collingwood Close, Torquay, TQ1 2DN

Description of development: 'proposed alterations & extensions + garage to form bedrms to roof area extension ground floor bed rm/en-suite/utility/tv lounge & porch rear of existing kitchen WC/lobby'

Planning Inspectorate decision issued: 29 August 2024

Appeal reference: APP/X1165/D/24/3346659

Delegated decision

Main issues:

The main issue is the effects of the proposal upon the character and appearance of the area, including the Lincombes Conservation Area.

Decision: Split decision.

The appeal was dismissed insofar as it relates to removal of second vehicular access to the front garden and the erection of a new double garage.

The appeal was allowed insofar as it relates to the demolition of part store/garage, the erection of a single-storey side extension, a rear porch extension and roof extensions to front and rear to form bedroom/hobby room to loft area, with balcony and planning permission is granted for the demolition of part store/garage, the erection of a single-storey side extension, a rear porch extension and roof extensions.

4.6: Application reference: P/2023/0789

Address: 5 Princes Road East, Torquay, Torbay, TQ1 1PF

Description of development: The development proposed is described as a 'First floor extension to form specialist bathroom'

Planning Inspectorate decision issued: 30 August 2024

Appeal reference: APP/X1165/D/24/3343505

Delegated decision

Main issues:

The main issues were the effects of the proposal upon the character and appearance of the area, and upon the living conditions at 3 Princes Road East in terms of visual impact and light.

Decision: Dismissed

4.7: Application reference: P/2024/0192

Address: Edwinstowe, Middle Warberry Road, Torquay, TQ1 1RN

Description of development: Temporary retention of 1.7m front boundary fence, associated planting and permanent retention of front 2m security gate.

Planning Inspectorate decision issued: 27 August 2024

Appeal reference: APP/X1165/D/24/3347977

Delegated decision

Main issues:

The effect of the proposal on the character and appearance of the street scene and Warberries Conservation Area (WCA).

Decision: Dismissed

4.8: Application reference: P/2023/0455

Address: 29 Western Road, Torquay TQ1 4RJ

Description of development: Alterations to form two dwelling units

Planning Inspectorate decision issued: 19 August 2024

Appeal reference: APP/X1165/W/24/3341749

Delegated decision

Main issues:

The effect of the proposal on:

- the living conditions of future occupiers, with specific regard to internal space standards, outlook and light.
- the character and appearance of the St Marychurch Conservation Area.

Decision: Dismissed

4.9: Application reference: P/2023/0704

Address: 2 Clifton Road, Paignton TQ3 3LN

Description of development: Proposed change of use from vacant shop premises to bedsit.

Planning Inspectorate decision issued: 15 August 2024

Appeal reference: APP/X1165/W/24/3339134

Delegated decision

Main issues:

The living conditions of the future occupants of 2 Clifton Road, with specific regard to internal space standards, and access to outdoor garden space.

Decision: Dismissed

4.10 Application reference: P/2023/0808

Address: 480 Babbacombe Road, Torquay

Description of development: Change of use from cafe to residential accommodation. Replacement of glazed frontage with composite door and UPVC windows.

Planning Inspectorate decision issued: 12 August 2024

Reference: APP/X1165/W/24/3337736

Delegated decision

Main issues:

- the effect of the proposal on the character and appearance of the area having regard to the Lincombes Conservation Area (LCA); and,
- whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to outlook, and daylight.

Decision: Dismissed

4.11 Application reference: P/2023/0422

Address: Westerlands, Flat 3, Underhill Road, Torbay, Torquay

Description of development: Change of use from cafe to residential accommodation. Replacement of glazed frontage with composite door and UPVC windows.

Planning Inspectorate decision issued: 26 July 2025

Reference: APP/X1165/W/24/3340925

Delegated decision

Main issues:

- whether the proposal would comply with local and national policies that seek to steer new development away from areas at the highest risk from flooding; and
- the effect of the proposal on the character and appearance of the area.

Decision: Dismissed

4.12 Application reference: P/2022/1357

Address: Land to the north of Totnes Road, Collaton St Mary, Paignton TQ4 7PY

Description of development: Planning permission for up to 73 dwellings (including market and affordable housing) with all matters reserved except access arrangements to be provided directly onto Totnes Road via an access junction without complying with conditions attached to the approval of reserved matters on 20 March 2023 pursuant to planning permission Ref P/2019/0604, dated 25 November 2020.

Planning Inspectorate decision issued: 23 July 2024

Reference: APP/X1165/W/23/3323427

Delegated decision

Background and main issues:

- Planning Committee decision.
- Outline planning permission was granted at the site in 2020 for up to 73 dwellings. The Council approved a subsequent reserved matters application. The appellant submitted a further application to seek to vary some of the conditions that the Council imposed. This appeal follows the Council's refusal of that application.
- The main issue is therefore whether the disputed conditions are necessary in the interests of the character and appearance of the area, living conditions, ecology, and highway safety.

Decision: Allowed with split decision

Costs: application refused. No unnecessary or wasted expense has been incurred and an award of costs is not warranted.

4.13 Application reference: P/2023/0278

Address: 22 Roundham House, Flat 8, Belle Vue Road, Torbay, Paignton

Description of development: Replace existing windows with matching uPVC vertically sliding windows.

Planning Inspectorate decision issued: 22 July 2024

Reference: APP/X1165/W/23/3327895

Delegated decision

Main issues:

The effect of the proposal on the character and appearance of the host building and Roundham and Paignton Harbour Conservation Area (CA).

Decision: Dismissed.

4.14 Application reference: P/2023/0874

Address: 1 Broad Reach, Paignton TQ4 6JZ

Description of development: First floor extension; ground floor extensions; creation of a first floor balcony; changes to windows and materials and associated landscaping works.

Planning Inspectorate decision issued: 15 July 2024

Reference: APP/X1165/D/24/3342294

Delegated decision

Main issues:

The main issues are the effects of the development on the character and appearance of the area and upon the living conditions of existing and future occupiers of neighbouring properties, having particular regard to the effects upon No. 2 Broad Reach.

Decision: Dismissed.

4.15 Application ref: P/2023/1064

Address: 1B Hillrise, Galmpton, Brixham TQ5 0PR

Description of development: Proposed is a proposed two storey side extension to provide additional accommodation.

Planning Inspectorate decision issued: 11 July 2024

Decision: Dismissed.

Reference: APP/X1165/D/24/3342941

Delegated decision

Main issues:

The main issue is the effects of the development on the character and appearance of the area.

Decision: Dismissed.

4.16 Application reference: P/2023/0597

Address: Building Plot, North of 9 - 17 Greenswood Road, Brixham TQ5 9HN

Description of development: Proposed bungalow

Reference: APP/X1165/W/24/3336614

Delegated decision

Main issues:

- Noting the matters raised by interested parties, the Inspector considered the main issue to be the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.
- The appeal concluded that the proposal would not result in any significantly harmful effects on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.

Decision: Allowed.

4.17: Application reference: P/2023/0597

Address: Building Plot, North of 9 - 17 Greenwood Road, Brixham TQ5 9HN

Description of development: The development proposed is a bungalow

Planning Inspectorate decision issued: 8 July 2024

Appeal reference: APP/X1165/W/24/3336614

Delegated decision

The main issue was the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.

Decision: Allowed

Appendices

Appendix 1:

Planning appeal decisions issued between 31 March and 30 September 2024

Total	31	
Allowed	11	35.48%
Dismissed	18	58.06%
Withdrawn	1	3.23%
Split	1	3.23%

This page is intentionally left blank