

Friday, 29 November 2024

PLANNING COMMITTEE

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

Monday, 9 December 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

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

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

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 11 November 2024.

(Pages 5 - 6)

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. **26 Cliff Road, Paignton, TQ4 6DH (P/2024/0645)**

Change of use to two flats and one maisonette for use as supported accommodation by the YMCA with replacement doors.

(Pages 7 - 38)

6. **44 Fore Street, Torquay, TQ1 4LY (P/2024/0432)**

Extension and reconfiguration of mixed-use residential-commercial building to six apartments. Existing commercial space to be retained.

(Pages 39 - 58)

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, 4 December 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.

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Minutes of the Planning Committee

11 November 2024

-: Present :-

Councillor Brook (Chairman)

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

(Also in attendance: Councillors Maddison)

68. Minute's Silence

As a mark of respect, the meeting commenced with a minute's silence to honour the life and passing of service personnel on 11 November 1918 and to remember Armistice Day.

69. Minutes

The minutes of the meeting of the Committee held on 14 October 2024 were confirmed as a correct record and signed by the Chairman.

70. Torbay Hospital Clinical Hub Newton Road Torquay (P/2024/0001)

The Committee considered an application for a new mixed use clinical hub building four storeys high and a further partial floor of lower ground. The site area included the demolition of existing buildings and a new electrical substation.

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 Dr Rodney Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application.

In accordance with Standing Order B4.1 Councillor Maddison addressed the Committee in respect of concerns around parking.

At the meeting the Divisional Director of Planning, Housing and Climate Emergency advised, that since the report had been published, the following amendments should be made to two of the proposed conditions:

1. Construction/Demolition Management Plan shall read 'shall be approved in writing by the Local Planning Authority' and not the 'Council'; and

2. Cycle Parking Strategy shall read 'details of the cycle store to be approved by the Local Planning Authority'.

Resolved (unanimously):

Approved: subject to:

1. the condition on Construction/Demolition Management Plan shall read 'shall be approved in writing by the Local Planning Authority' and not the 'Council';
2. the condition on the Cycle Parking Strategy shall read 'details of the cycle store to be approved by the Local Planning Authority';
3. the conditions as outlined in the submitted report, subject to the changes in 1 and 2 above, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency and the completion of a Section 106 Legal agreement to secure a tree mitigation payment of £71,531.00;
4. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations; and
5. with an informative that:
 - a. as part of the submission of future applications the Trust is requested to submit details to the Local Planning Authority to clarify that sufficient car parking and replacement residential accommodation will be provided;
 - b. to discharge the condition on solar panels the applicant is informed that the Local Planning Authority would anticipate the orientation and number of the solar panels shown may increase, same would not require revised plans to be submitted in their own right; and
 - c. the final wording of the informative being delegated to the Divisional Director of Planning, Housing and Climate Emergency.

Chairman

TORBAY COUNCIL

Application Site Address	26 Cliff Road Paignton TQ4 6DH
Proposal	Change of use to two flats and one maisonette for use as supported accommodation by the YMCA with replacement doors.
Application Number	P/2024/0645
Applicant	City of Exeter YMCA
Agent	Mr Andrew Farrell
Date Application Valid	11/10/2024
Decision Due date	06/12/2024
Extension of Time Date	TBC
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>Legal agreement/undertaking to secure a Berry Head ecological mitigation payment of £405.</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 Chairman of the Planning Committee given the level of public interest.

Location Plan



Site Details

The site is 26 Cliff Road, Paignton which is a semi-detached property in sui generis use as a club house for the Paignton Sea Anglers Association. The property is spread over three floors and features a low wall on the front boundary with an area

of concrete. The property benefits from a rear terrace set above the adjacent Holocaust Memorial Garden.

To the east of the property, and to the east of the Burma Star Memorial Garden is a garage structure accessed via Cliff Road. The northern half of the garage forms part of the application site. The garage includes a door on the north elevation however given the space available, a car would not be able to turn to access the garage without going over land/grass which is within Council ownership as part of the Burma Star Memorial Garden.

The site is within the Roundham and Paignton Harbour Conservation Area and within the Conservation Area Character Appraisal the building is identified as a 'key building' of architectural importance and part of a wider 'important building group'. The garage is also identified as a 'key building' of architectural importance.

The site is located within flood zone 1 and a critical drainage area.

The property is surrounded to the north and west by the Holocaust Memorial Garden whilst the garage structure sits adjacent to the Burma Star Memorial Garden. The semi-detached neighbouring property is in use as flats and the predominant surrounding use are residential dwellings and flats. To the west of the Holocaust Memorial Garden is the Roundham car park.

Description of Development

Full planning permission is sought for the change of use of the building to two flats and one maisonette for use as supported accommodation by the YMCA with the replacement of two external doors.

The proposal will result in two 1-bedroom flats located at ground floor level and access via a shared internal entrance hall, and one 6-bedroom maisonette set over the basement, ground floor and first floor also accessed via the shared internal entrance hall. All three units will fall within use class C3(b). The two 1-bedroom flats will be single occupancy whilst the maisonette will be occupied by 6 individuals who will share a living room, kitchen, toilet and basement storage whilst having individual en-suite bedrooms.

External changes are limited to the replacement of two external doors on the west elevation of the building with heritage doors matching the style of the existing doors.

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.

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
- 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

Highways -

Site Description

The site is located to the north of Cliff Road, adjacent to the Burma Memorial Gardens close to Roundham Head and Fairy Cove Beach in Paignton. The site currently comprises a semi-detached two storey building which has been owned and used by Paignton Sea Anglers Association since 1986. The existing building includes recreational and meeting spaces, function space, drinks bar, café / restaurant. It lies within the Roundham & Paignton Harbour Conservation area.

Cliff Road routes adjacent to the site frontage, it is a two-way road with footways on either side. There is unrestricted on-road parking on the northern side of Cliff Road

however 'No Waiting at Any Time' parking restrictions are located on the southern side. Cliff Road also provides access to Roundham car park which is located approximately 25m to the west of the proposed site.

Site History

A Pre-application enquiry was submitted in April 2024 for the Change of Use of 26 Cliff Road Ravenswood) to residential flats (2-4 units).

It is understood that the planning history is:

P/1982/2518

A planning application was submitted in October 1982 for the use of Ravenswood as holiday flats. The application was granted permission subject to Condition 1, which states that no change of use is permitted until detailed plans have been submitted to and approved by the Local Planning Authority.

P/2007/1954

A planning application was submitted in 2007 for a covered terrace on rear elevation at the site which was refused by the Local Planning Authority due to the impact on visual appearance and character.

Traffic Impact

Highway Safety

The application has not included any review of personal injury collisions. The Highway Authority has undertaken a review of personal injury collision (PIC) data which shows no highway safety concerns near the site which could be exacerbated by the proposals.

Design Considerations

Pedestrian and Cycle Access

The application form indicates that no new or altered pedestrian access is proposed from the public highway. The Access Design Statement also mentions that pedestrian access would be as existing from Cliff Road.

Currently, pedestrian access is achieved via the footway on Cliff Road. It is anticipated that cyclist access would be further down the road at the driveway access to the cycle store is located (Drawing YPA SK10 B), where a dropped kerb is provided.

Cycle Parking

As per Appendix F (Car Parking Requirements) of the Torbay Local Plan, at least 1 cycle parking space per flat must be supplied within a secure, well-lit and covered storage area.

The application form indicates that there are currently no cycle parking spaces on the site. The proposal includes provision for 8 cycle parking spaces within a detached garage, located 50 meters east of the site. The location of these parking spaces is shown in Drawing No. YPA SK10 B.

The Management Plan highlights that a secure Bike Shelter with lighting and full CCTV coverage could be located within the Garage nearby with the capacity to store both Staff and Resident bikes. Residents would be assisted with the provision of bike locks and other methods of keeping their bikes and belongings secure. The Highway authority is satisfied that this provision is in line with the Torbay Local Plan standards. However, the numbers of staff are unknown, the applicant should ensure enough cycle parking is provided for residents and staff use.

Public Transport Access

The Department for Transport's Inclusive Mobility guide (2021) recommends that bus stops in residential areas should be located within a 400 meters walkable distance.

The nearest bus stop to the site is located on Roundham Road, outside Roundham Garage approximately 240 metres to the west of the site and easily accessible within a 3-minute walk. The bus stop is in the form of a flag and pole in the southbound direction, however no physical flag and pole is present for the northbound bus stop. Both locations have on carriageway bus markings. The walking route to this bus stop is facilitated by footways; however, there is also a cut through from Cliff Road to Roundham Road adjacent to Roundham Garage. The Highway authority is satisfied that the site is situated in a sustainable location.

Vehicular Access

The existing vehicular access is from Cliff Road. The submitted documents do not specify any changes to the vehicular access to the site.

Car Parking

As per Appendix F (Car Parking Requirements) of the Torbay Local Plan it is recommended that 1 car parking space per flat is provided along with secure and covered cycle storage for at least 1 cycle per flat. Visitor parking should also be provided. Furthermore, EV Charging Provision must adhere to Building Standards, ensuring that each dwelling with a parking space is served by a charger.

Car parking within the immediate area is restricted. The applicant must ensure that parking provisions align with Torbay Local Plan standards. The applicant has provided reasoning to suggest that residents at the site are unlikely to use a vehicle.

The application form indicates that there is one existing car parking space within the garage. However, the location of this existing car parking space has not been included in the proposed layout (Drawing No. YPA SK10 shows this space now used

for cycle parking). The applicant should clarify whether any specific parking space is proposed, and if so, should demonstrate this on a plan.

The Access Design Statement notes that visitors could park on the northern side of Cliff Road, where there are no parking restrictions, or in the nearby Torbay Council-maintained Roundham multi-storey car park off Cliff Road.

Refuse / Servicing / Emergency Access

The Application Form indicates that the waste storage and collection will be as per the existing arrangement, understood to be roadside, with no changes proposed.

The Management Plan indicates that each room will be equipped with 2 separate bins to encourage separation of recycling and general waste. 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. However, the locations of the bins are not presented in the proposed ground level layout. This should be demonstrated. Torbay Council's waste storage guidance recommends that communal stores must also be located no further than 25 metres from the nearest point of access for the refuse collection vehicle.

Based on the existing site layout, it appears that, in the event of an emergency, a fire appliance can access the front of the property from Cliff Road. During the pre-application stage, it was suggested that the forthcoming application should demonstrate whether a fire appliance can access all parts of the building in accordance with the Manual for Streets standards (Section 6.7). However, this assessment has not been included in this planning application.

Conclusion

The Highway Authority requires the following items to be resolved:

- Demonstrate if and where vehicle parking is proposed.
- Identification of the location for bin storage.

Once these details have been provided, and found to be satisfactory, the Highway Authority will be in a position to raise no objection.

Response received following planning officer confirmation on the existing parking capacity in the garage and querying if waste storage could be secured by condition:

I think the waste collection can be dealt with by way of condition, with a requirement to be in-line with SWISCO Waste requirements?

In terms of parking, on the basis it is YMCA / sheltered accommodation the parking requirement is likely to be reduced – therefore I don't think this will be a 'severe'

reason for refusal. In taking this pragmatic approach, could a condition be applied to the application/land use to ensure it is not later sold for private use?

Principal Policy and Project Officer-

I refer to the above application for change use of the former Sea Anglers, 26 Cliff Road, Paignton to two flats and one maisonette for use as supported accommodation by the YMCA. The application is supported by a management plan indicating that the building will be used by the YMCA to provide supported affordable housing to local young people.

The proposal would bring very strong social benefits in terms of providing affordable housing in a sustainable location within walking distance of a transport interchanges, the town centre and Esplanade. The Community and Corporate Plan 2023-43 has a priority to: "To keep children safe in their communities and provide safe environments for our young people to thrive in". In my view this is the most important material consideration relating to the proposal. Because of the nature of the use and relevance of the YMCA management regime, it would be appropriate to grant permission on a personal basis, or tied by condition to the management plan. This may help alleviate some of the concerns raised in representations on the application. The conversion of the building to residential use is likely to be acceptable in its own right in this location. However, the accommodation as proposed does appear to lend itself to Class C4 HMO use, and issues such as parking would need to be considered for an unrestricted Class C3 use. Un-unregulated HMO could raise policy concerns in relation to Local Plan Policy H4. These are additional reasons for conditioning the application to restrict use as described in the YMCA Management Plan.

The proposal is not located within a Core Tourism Investment Area, and is not holiday accommodation. Accordingly, I do not consider that there is a policy concern relating to loss of tourism.

The Berry head recreation contribution would be applicable.

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. See attached.

The provision will assist in delivering a key element of the Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential and its significance cannot be stressed enough. This will enable and contributed towards 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. The grant funding is time limited and therefore traction is required on delivery and will therefore provide a valuable resource at pace. 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 -

It is welcomed the detail within the documents which relates to security especially within the Design Access Statement and the Management Plan for the proposal. I support the proposed installation of CCTV internally & externally, access control measures and lighting.

It is recommended that all doors that lead to private residents' rooms, studios should be certificated products to meet the standards of PAS 24:2022. Equally all doors providing entrance into the property should also meet PAS:24 standards.

It is also recommended that if any ground floor and easily accessible windows are being replaced these should be certified products to meet the standards of PAS24: 2022 where these are not being replaced the locking mechanisms should be upgraded where necessary to meet the standards mentioned above. Likewise, these windows must be fitted with a window restrictor to prevent reach in burglaries where the offender reaches in an open window and steals anything within reach.

With regards to the mail delivery system, it is welcomed that the post will be delivered to post boxes allocated to their flats or rooms, this is recommended it is positioned within the entrance lobby area, this should be covered by CCTV. It should be equipped with high security cylinders that are not subject to a master key, it also

should be robust construction whilst incorporating an anti-fishing design and be fire resistant. The letter boxes should have a maximum aperture size of 260mm x 40mm. It's noted that the proposed bicycle store will be within a garage. It is recommended that the stands are certificated to one of the following standards.

- LPS 1175 Issue 7 Security Rating 1, or
- LPS 1175 Issue 8 Security Rating A1, or
- LPS 2081 Issue 1 Security Rating A, or
- Sold Secure SS104 Bronze, or
- STS 205 Issue 7 Burglar Resistance BR1, or
- STS 225 Issue 2 Burglar Resistance BR1(S), or
- STS 501 Security Rating TR1, or
- STS 503 Security Rating TR1.

Within the Management Plan within the Building Design section it states that 'Security and tenant safety is a priority for us and so the building will achieve Secure by Design certification'. I would ask the applicant to contact me to discuss this further at the earliest opportunity.

Senior Environmental Health Officer –

No objections.

Waste Officer -

Torbay Recycling and Waste Collection Guidance for Developers document provided.

Principal Historic Environment Officer (verbal comments)-

The proposal would result in a neutral impact on the Conservation Area. A planning condition to secure details of the new external doors is recommended to ensure a good quality design is secured. If the application was for unrestricted C3 use, we would look to secure improvements to the building. Given the nature of development it is accepted that this will not be achieved. A planning condition restricting the use to supported accommodation linked to the YMCA is recommended to ensure if the property is later converted to unrestricted C3 use, this would require the benefit of planning permission and enhancement measures could be secured at that stage.

Summary of Representations

At the time of writing a total of 36 letters of objection have been received in which the following matters were raised:

- Impact on Holocaust Memorial Garden and Burma Star Memorial Garden from proposed use
- Impact on tourism
- Impact on traffic and parking

- Unsuitable location for proposed use
- Lack of outside space
- Impact on local services
- Conflict with Local Plan policies and NPPF
- Impact on Conservation Area
- Fails to support economic goals
- Noise and disturbance
- Lack of sufficient management
- Impact on neighbour amenity
- Lack of in-built storage
- Number of occupants
- Use of the site by non occupants
- Anti-social behaviour
- Impact on crime
- Description of development misleading
- Impact on South West Coast path
- Impact on character of neighbourhood
- Fails to positively contribute to its environmental setting
- Undermines local pride
- Waste storage and collection
- Usability and use of garage
- Fire risk
- Loss of club house
- Query location for washing/drying clothing
- Lack of facilities for employees
- Process of application and lack of transparency
- Density of development
- Poor transport links
- Demographic of area
- Impact on local businesses
- Alternative locations should be considered
- Proposal is for an HMO
- Lack of integration with the local community

Relevant Planning History

DE/2024/0050 Pre application advice sought for the change of use to multiple residential flats (2-4 units), including exploring parking options.

P/2007/1954 Covered Terrace On Rear Elevation. Refused 18/02/2008

P/1983/2123 Use As Club Premises. Approved 11/11/1983

P/1982/2518 Use As Holiday Flats. Approved 18/02/1983

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

1. Principle of Development, Housing and Affordable Housing

The proposal is for the change of use of the sui generis club house building to two flats and one maisonette for use as supported accommodation by the YMCA with the replacement of two external doors.

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.

The proposal will result in two 1-bedroom flats located at ground floor level and access via a shared internal entrance hall, and one 6-bedroom maisonette set over the basement, ground floor and first floor also accessed via the shared internal entrance hall. All three units will fall within use class C3(b). The two 1-bedroom flats will be single occupancy whilst the maisonette will be occupied by 6 individuals who will share a living room, kitchen, toilet and basement storage whilst having individual en-suite bedrooms.

Young People will live in this 'Stage 3 and 4' accommodation. Stage 3 is often called a "Trainer Tenancy"; a 6-month Assured Shorthold Tenancy (AST) is granted to the young person alongside a programme of support documented in a portfolio. Successful completion of the requirements of the programme and production of the evidence in the portfolio means that the Young Person has shown they are able to fully manage their tenancy and all the related responsibilities. The AST therefore

continues and the Young Person receives a Stage 4 level of support but remains in their home. If the Young Person doesn't achieve the requirements within 6 months then the probationary period can be extended up to 12 months. If still unsuccessful then the young person would step back to Stage 2 accommodation where the reasons for not being able to maintain the tenancy can be more optimally addressed.

Stage 3 and 4 Services are designed as move on accommodation for residents who have demonstrated the ability to live more independently with a much lower level of support. The purpose of such accommodation is to provide a "stepping stone" to fully independent living, and therefore occupancy shall be temporary, although the length of time a resident may remain in the accommodation will depend on how quickly they are capable of living fully independently and the availability of realistic move on options. It is expected that residents will stay in each of these accommodation stages for between 2 and 5 years, although this period may be extended if appropriate. The form of tenure shall therefore be an Assured Shorthold Periodic Tenancy.

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.

The site would be staffed by a professional staff team led by a full-time Housing Manager. The Support Team will be available 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. One staff member remains on-call throughout the night 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 Management Plan confirms the general timeline of a day for residents as:

The majority of Tenants will be engaged in work or education during the day and so the support service is focussed on work in the evening. The intensity of support meetings reduces in Stages 3 and 4 and focusses more on engagement with the tenants in regular contact, community and group based work, digital contact and interaction and has an emphasis on ensuring the tenants are more proactive in their engagement in any support that they require.

Staff visit and support the tenants in their work, engaging with employers, teachers, heads of department and others to help ensure that the tenant is

coping well in their work or educational placement and is moving to a place where professional support involvement will no longer be regularly required.

In the late afternoon to evening there would be workshops either on site or as part of a community group off site and likely evening and weekend social activities usually based around food or a trip out. After 10pm, offsite staff remain on call and would be able to monitor CCTV as required.

Weekends will often 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!

Often Stage 4 young people volunteer and mentor young people in earlier stages, taking a lead in running and even developing new activities and groups. We operate an Ambassador programme to facilitate this further with young people volunteering their time to help, inspire and guide young people by sharing their lived experience of supported housing and how to make best use of the support available to them.

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 formation of three C3(b) supported accommodation units. 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 proposal would create three C3(b) units of accommodation for a total of 8 individuals 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. 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. The accommodation is purpose designed to

meet the needs of the client group, understanding that each tenant will likely only live in the accommodation an average length of 5 years before life circumstance and natural progression will cause them to seek different accommodation. 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:

Our Studios at 26 Cliff Road are proposed to be compliant with Nationally Described Space Standards. We also operate a method of enabling us to provide utilities at very low cost due to the YMCA’s ability to purchase as a large National body. These savings are passed on in the service charge in the accommodation providing low cost utilities and preventing tenants from any rapid adverse changes in energy charges such as those that have occurred in recent years.

The Management Plan provides certainty about the proposed use, client group and operation of the site and the mixture of two 1 bedroom flats and a 6 bedroom shared maisonette provides an accommodation type which meets the needs of the future occupiers. This accommodation type is designed as stage 3 and 4 accommodation which provides a stepping stone for residents through the 4 stages of the YMCA’s pathway of supported accommodation. This 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.

Externally, we often utilise ultra-high definition (4K) covering any areas in the locality that the police and secure by design officers have highlighted as places of concern. 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 26 Cliff Road and the previous Stage 2 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 suitably blend in with other residential uses in the area. The proposal is therefore considered to be a compatible use within the locality.

Overall, the proposal will result in three C3(b) units of accommodation for a total of 8 individuals 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 existing locality. As such the principle of the development is considered to accord with Policies SS13, SS11, H1 and H6 of the Torbay Local Plan.

The proposal will result in the loss of the club house use. Whilst the building is within a community facility use the site is not allocated nor is it listed as an asset of community value. Policy SC2 of the Local Plan states that:

“There will be a presumption against loss of existing recreational and leisure facilities, unless:

- i) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- ii) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- iii) The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”*

The building is currently occupied by the Paignton Sea Anglers Association however it has been sold subject to contract. The Design/Access and Supporting Statement confirms that *the Association reported when the property was first marketed for sale in November 2023, that ... although our Club continues to enjoy a strong core membership, we no longer have the need for a building of the size of Ravenswood; it has been a good home for Paignton Sea Anglers, and hopefully we have done our part in its history in preserving and utilising such a lovely building. We hope whatever its next use, it will continue to play a prominent part in the life around Paignton Harbour.*

During consideration of a separate pre-application enquiry (DE/2024/0050) made by the Paignton Sea Anglers Association, a site meeting took place between the planning officer and the owners of the site/club in May 2024 and it was verbally confirmed that the club membership and revenue did not support the operation of the building. The building is therefore considered to be surplus to the requirements of the club.

Given the building is surplus to the requirements of the club, the change of use of the building is not considered to impact on the current provision of a recreational/leisure facility and the proposal is considered to accord with Policy SC2 of the Local Plan.

2. 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.

The site is located within 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 are limited to the replacement of two external doors on the west elevation of the building with heritage doors matching the style of the existing doors.

The Council's Principal Historic Environment Officer has confirmed that the proposal would result in a neutral impact on the Conservation Area. A planning condition to secure details of the new external doors is recommended to ensure a good quality design is secured. If the application was for unrestricted C3 use, it is recommended that improvements to the building should be secured to the building as per paragraph 212 of the NPPF which states that *Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.* Given the nature of development proposed, which is for supported accommodation of an affordable nature, it is not considered reasonable to require such enhancements. A planning condition restricting the use to supported accommodation linked to the YMCA is recommended to ensure that if the property is later converted to unrestricted C3 use, this would require the benefit of planning permission and enhancement measures could be secured at that stage.

The Management Plan provides details of the intended operation and this includes 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 concerns raised in representations with the impact of the proposal on the use of the Holocaust Memorial Garden, Burma Star Memorial Garden, the south west coast path and Fairy Cove.

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

3. 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

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 10 square metres for apartments (which can be provided communally). Internal floor standards are set out from the Nationally Described Space Standards and echoed in Table 23 of the Torbay Local Plan 2012-2030. This states that a one bedroom, single storey 1 person unit with a shower room should have a minimum internal area of 37sqm whilst a six bedroom, three storey, 7 person unit should have a minimum internal area of 129sqm.

The proposal will result in two 1-bedroom flats located at ground floor level and access via a shared internal entrance hall, and one 6-bedroom maisonette set over the basement, ground floor and first floor also accessed via the shared internal entrance hall. All three units will fall within use class C3(b). The two 1-bedroom flats will be single occupancy whilst the maisonette will be occupied by 6 individuals who will share a living room, kitchen, toilet and basement storage whilst having individual en-suite bedrooms.

The internal size of the two 1-bedroom flats at ground floor level are approximately 37sqm and 42sqm², whilst the six bedroom maisonette is approximately 290sqm. All units thereby meet or exceed the minimum stated requirement and all habitable rooms are served by adequate light and outlook. The 6 person maisonette is considered to benefit from adequately sized bedrooms and good quality shared space in the form of the living room and kitchen. Overall, the proposal is considered to result in a good quality environment for future occupiers.

A condition limiting the use to supported accommodation and restricting the occupancy to 1 individual in each of the ground floor flats, and to 6 individuals within

single occupancy rooms within the 6 bedroom maisonette is recommended given the intended management arrangements.

The rear and side of the site includes a terrace area of approximately 83.35sqm which is set at a higher level than the adjacent Holocaust Memorial Garden. There is no formal boundary treatment between the terrace and the Holocaust Memorial Garden however a bank separates the two providing a level of separation. This space is considered to be good quality and adequate to serve the proposed occupants of the three C3(b) units.

The site is within a highly sustainable location being within walking distance to local shops, transport links, public gardens and the beach.

Neighbouring occupants

The proposal involves the replacement of two existing external doors which is not considered to impact on neighbouring amenity.

As detailed earlier in the report, the site would be staffed by a professional staff team led by a full-time Housing Manager. The Support Team will be available 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. One staff member remains on-call throughout the night 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 and the Council's Senior Environmental Health Officer has raised no objection. 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 raised in representations.

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.

4. Access, Movement and Parking

Policy TA3 and Appendix F of the Local Plan states that flats should be provided with 1 parking spaces per flat and provision of secure and covered cycle storage for at least 1 cycle per flat.

The Council's Highway Engineer has noted that they have undertaken a review of personal injury collision (PIC) data which shows no highway safety concerns near the site which could be exacerbated by the proposals.

The proposal includes provision for 8 cycle parking spaces within a detached garage, located 50 meters east of the site. The Management Plan highlights that a secure Bike Shelter with lighting and full CCTV coverage will be located within the garage. Residents would be assisted with the provision of bike locks and other methods of keeping their bikes and belongings secure. The Highway Authority is satisfied that this provision is in line with the Torbay Local Plan standards and the cycle storage is recommended to be secured by a planning condition.

Car parking within the immediate area is restricted although there is a public car park to the west of the site. The applicant has provided reasoning to suggest that residents at the site are unlikely to use a vehicle. The Highway Engineer originally queried if there was any existing parking serving the site and if any was proposed. The planning officer has confirmed to the consultee that there is no car parking proposed as part of the scheme. It was indicated in the application submission that the existing garage provides a space however realistically a car cannot turn to access the garage without going over land/grass which is within Council ownership as part of the Burma Star Memorial Garden. Therefore, although the application states there is 1 existing space, it is not accessible to a standard dimensioned car. The Highway Engineer subsequently confirmed that on the basis that the proposal is for YMCA / sheltered accommodation, the parking requirement is likely to be reduced and therefore they do not consider that the lack of any proposed parking would result in a severe impact on the highway network. The Highway Engineer has requested that a condition is added which restricts the use to supported accommodation for the YMCA, given an alternative C3 use could have a greater impact. The use of the site is therefore recommended to be secured to the YMCA as three units of supported accommodation only.

Subject to the recommended conditions, 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.

5. Ecology and Biodiversity

The NPPF provides guidance in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Paragraph 180). The Development Plan frames similar aspirations principally through Policies SS12 and NC1 of The Local Plan.

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. 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 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.

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 £405 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.

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.

6. 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 1 and a critical drainage area. The application has been supported by a flood risk assessment which states that there are no changes proposed to the existing drainage systems.

The proposal will not result in any increase in impermeable area and therefore the existing means of drainage is considered acceptable and in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

7. 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 “all waste is of a domestic nature and each room will be equipped with 2 separate bins to encourage separation of recycling and general waste. 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 Torbay Council’s waste storage guidance recommends that communal stores must also be located no further than 25 metres from the nearest point of access for the refuse collection vehicle. The Highway Engineer has subsequently confirmed that a planning condition securing suitable waste and recycling storage would be acceptable and it is considered that there is adequate space within the site to accommodate such storage.

A planning condition securing adequate waste and recycling facilities is therefore recommended and the proposals are considered to conform with the requirements of Policy W1 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

8. 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 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. With the recommended 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.

9. 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 three C3(b) units are occupied there would be an increase in the level of disposable income from the occupants some which would be

likely to be spent in the local area and an increase in the demand for local goods and services.

The proposal would result in the loss of a club house however this use is surplus to the requirements of the Paignton Sea Anglers Association.

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

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 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 and promotes a car free form of development with suitable cycle storage for occupants. In terms of wider environmental considerations, 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.

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 –

Ecology mitigation of £405:

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 £405 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.

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

The proposed use of the site for 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 and will provide much needed housing in a sustainable location, compatible with the wider residential character of the area. The loss of a club house is not objected to where it has been demonstrated as being

surplus to requirements and is to be replaced with housing of an affordable nature 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, 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 location due to the intended use, nearby public car park and given the existing use of the building.

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.

Ecology matters are deemed to be duly considered 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.

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;
- Legal agreement/undertaking to secure a Berry Head ecological mitigation payment of £405.
- 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. Detailed Design of Doors

Prior to the installation of any replacement external door, full details of the replacement door shall have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour.

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

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and the NPPF.

2. 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.

3. 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.

4. Cycle Storage

Prior to the first occupation of the development hereby approved, the cycle storage detailed on approved plan 'YPA SK10 Rev B' shall be installed and made available for the use of all occupants. The cycle storage shall thereafter be 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.

5. Use

The premises shall be used as supported accommodation by the YMCA and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision

equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and the three units of C3(b) supported 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 City of Exeter YMCA for the approved use
- c) Only be used for the purposes of providing Stage 3 & 4 levels of supported accommodation as set out in the Management Plan referred to in Condition 6
- d) Serve a maximum of 1 occupant in each of the ground floor studio flats at any one time
- d) Serve a maximum of 6 occupants in the 6 bedroom unit at any one time in single occupancy rooms

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. Given the sites location within the Conservation Area and as no off road parking is proposed, a change in either the operator or the type of use, including that of a house in multiple occupation, may lead to detrimental effects on the area and could fail to support the character and quality of the Conservation Area. Any variation from the provider of services or use as supported accommodation must therefore have the express approval of the Local Planning Authority.

6. Management Plan

The development hereby approved shall be operated and occupied in strict accordance with the approved Management Plan 'P2024-0645-8' 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

SC2 – Sport, leisure and recreation

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

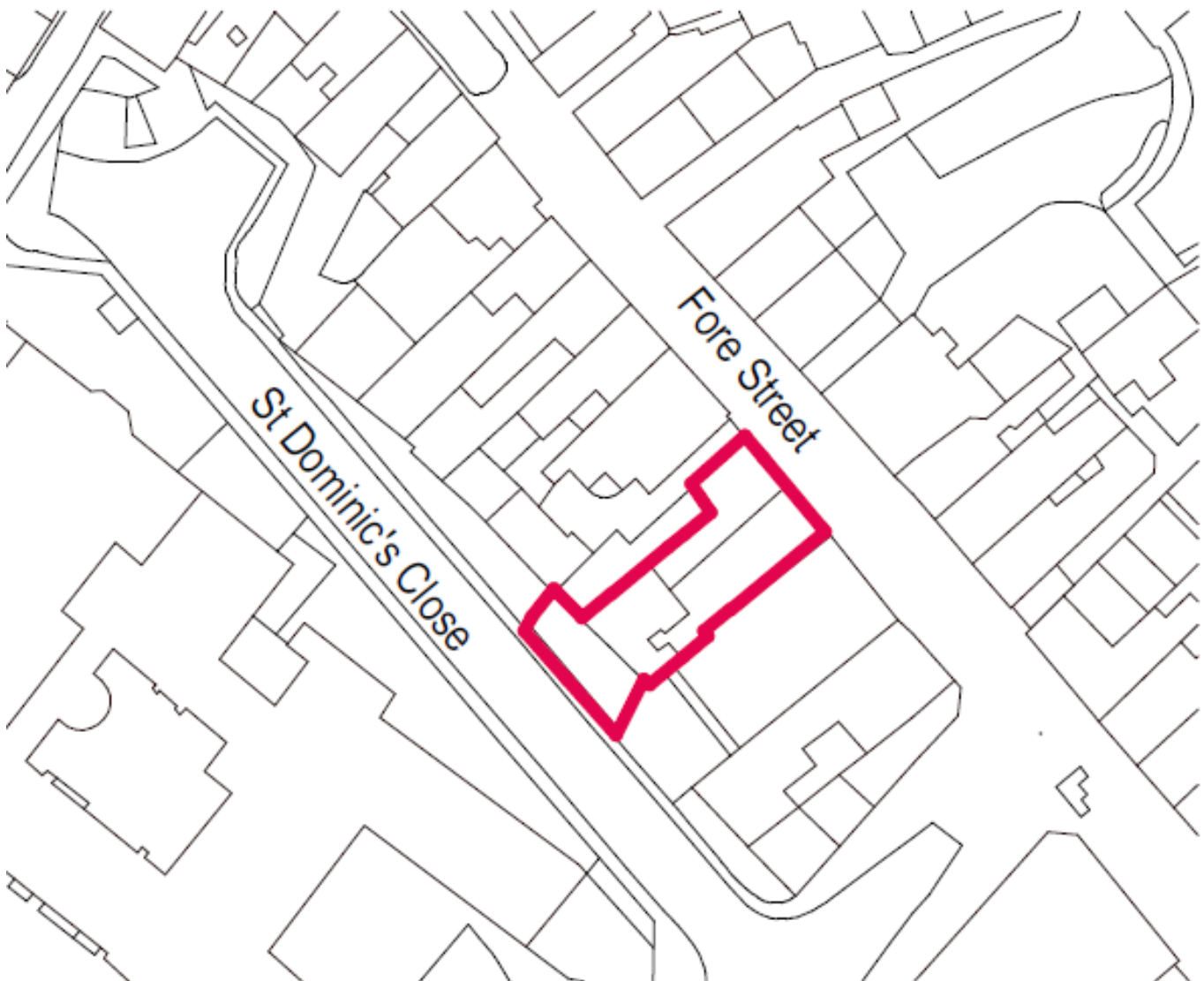
Paignton Neighbourhood Plan

PNP1 – Area Wide
PNP1 (c) – Design Principles
PNP1 (d) – Residential Development
PNP1 (f) – Towards a sustainable low carbon energy efficient economy
PNP1 (g) – Designing out crime
PNP1 (h) – Sustainable Transport
PNP1 (i) – Surface Water

TORBAY COUNCIL

Application Site Address	44 Fore Street Torquay TQ1 4LX
Proposal	Extension and reconfiguration of mixed-use residential-commercial building to six apartments. Existing commercial space to be retained.
Application Number	P/2024/0432
Agent	Kay Elliott Architects
Applicant	Mr James Hill
Date Application Valid	07/08/24
Decision Due date	02/10/24
Extension of Time	20/12/24
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, 44 Fore Street Torquay TQ1 4LX is a flat roofed terraced building and its curtilage. The building presents as a three storey building (ground, first and second floors) from the front elevation with a ground floor retail unit opening onto the pedestrianised shopping precinct along Fore Street. The existing second

floor with flat roof has been created through the removal of a pre-existing pitched roof over the first floor at some point in the past.

A large three storey rear extension has been added to the rear of the building at some point in the past, again with a flat roof. The ground, first and second floors of the building contain what in the past would have been five flats. None of these are occupied or habitable now. The rear extension to the building has been allowed to decay to the extent that it is now uninhabitable and unsafe, with pronounced cracks in the external masonry, windows missing and sections of flooring rotted away.

The site is within a mapped Local Centre and is in Flood Zone 1. The site is in the St Marychurch Conservation Area. The site does not have any specific heritage designation itself and is neither a Listed nor a Key Building. The building to the immediate south east, and the three buildings to the immediate northwest have no heritage designation either. There is a small grouping of four terraced buildings opposite the site on the other side of Fore Street which are designated as Key Buildings, along with other adjacent buildings that have no heritage designation. Behind the site on the other side of St Dominics Close there are two religious buildings built in Victorian times. Grade II listed Margaret Clitherow House is approximately 26m distant from the rear of the existing building. Grade 1 listed Roman Church of Our Lady is approximately 50m away from the rear of the building.

Description of Development

“Extension and reconfiguration of mixed-use residential-commercial building to six apartments. Existing commercial space to be retained”.

The proposal would add a new pitched roof to the existing second floor flat roof in the front elevation of the building facing Fore Street to create a fourth storey. The existing rear three storey extension would be demolished and replaced with a new, deeper, four storey extension (including another new pitched roof to tie in with the proposed pitched roof over the front elevation of the building).

At the rear of the site an existing historic limestone boundary wall between the back garden to the site and a wide verge next to the pavement along St Dominics Close would be left in place. The verge itself would be built upon with ground levels lowered to provide two new parking spaces, as well as a communal bin store and a “bat house” to provide an occasional night roost for a Lesser Horseshoe Bat which is currently using the basement of the property for this purpose.

The building would need to be substantially remodelled internally to comply with Building Regulations and, externally, the ground level of the existing rear garden would be raised as a result of this.

The proposal would retain the existing ground floor retail unit onto Fore Street and would create six flats, with three being two bedroom flats over the front portion of the building at first second and new third floor (i.e. roof space) levels. Three one bedroom flats would be created in the replaced rear extension at ground, first and second floors.

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)
- 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)
- St Marychurch Conservation Area Appraisal

- Torbay Council's Community and Corporate Plan 2023-2043
- 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

Community Safety: No objection.

Highways: No objection subject to clarification about which flats would be allocated parking spaces, cycle storage arrangements and condition for a Construction Traffic Management Plan.

Drainage: No objection subject to condition requiring drainage constructed in accordance with submitted documents.

Arboriculture: No objection subject to condition for replacement tree planting.

Devon County Council Ecology: No objection subject to condition for recommendations within submitted ecology report.

Torquay Neighbourhood Plan Forum:

"...This is a finely balanced proposal. The provision of 6 apartments contributes towards the housing needs of Torquay, and the Forum is pleased that the retail space is being retained. However, we are concerned about the heritage impact on the St Marychurch Conservation Area and the limited provision of parking spaces. Increasing the height of the building to 4 storeys will not be consistent with neighbouring properties. Although this may not be readily visible from the Precinct, the proposal will be incongruous when viewed from St Dominic Close at the rear. Although the impact on the nearby Listed buildings is minimal, we consider this will have a moderate adverse impact on the overall St Marychurch Conservation Area. The proposed balconies will be out of keeping with the neighbouring properties so, overall the Forum considers the proposal to be non-compliant with Policy TH8. The Torbay Local Plan Appendix F indicates the need for 6 parking spaces, but only 2 spaces are proposed. Although it can be argued that the apartments are close to hub facilities and there is a better than 20-minutes frequency of buses in St Marychurch the Forum considers that 2 spaces is insufficient, particularly bearing in mind that no provision has been made for the operator of the retail facility. The attached Policy Checklist shows a number of non-compliances with Policies, and we believe these could be resolved with a more modest development. The Forum recommends that this Application is referred to the Planning Committee where there can be a reasoned debate of the pros and cons".

(Officer note: the Forum considers that the proposals are contrary to the following policies in the Torbay Local Plan: SS10 (Conservation and the historic environment), SS14 (Low carbon development and adaption to climate change), TA3 (Parking requirements), DE1 (Design), DE4 (Building heights), ES1 (Energy), ES2 (Renewable and low-carbon infrastructure). Also, that the proposals are contrary to the following policies in the Torquay Neighbourhood Plan: TS3 (Community led planning), TH8 (Established architecture), TH9 (Parking facilities), TH10 (Protection of the historic built environment)).

Devon County Council Archaeology:

"... The boundary wall is recorded on the St Marychurch Tithe Map of 1840 (see screenshot below). This pre-dates the construction of the Roman Catholic Church and Convent precinct. At this date the plot now represented by 44 Fore Street is recorded as a cottage and garden. The plot (1297) south of the wall is recorded as a walled garden. The Ordnance Survey 1st Edition map of c. 1890, records that the land south of the boundary wall (still probably a garden) had become part of the Convent grounds. The construction of St Dominic's Close in the modern era has severed the direct connection, but the wall still forms part of the setting of the Grade II Listed Church and Grade II Listed convent, as well as reflecting the early 19th century and probably pre-19th century layout of the tenements and gardens along Fore Street. Given the historic interest and fabric of the wall, I would argue for its retention, or for the re-use of the stone within the new walling. However, I defer to your historic built environment colleagues on this matter. The proposal area also holds some archaeological potential. The settlement of St Marychurch has early medieval origins. 44 Fore Street is in the historic core of the settlement, and recorded as a cottage and garden by 1840. Groundworks for the building extension (foundations, services) have the potential to expose and*

destroy archaeological deposits that may be of medieval, post-medieval and early modern date. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development. I therefore 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 Devon County 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 211 of the National Planning Policy Framework (2023) 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 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development'. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented..."

Principal Historic Environment Officer:

"... The St. Marychurch Conservation Area Appraisal (CAA) identifies the area as being an important settlement in its own right and has a strong sense of its own identity. The application site is on a prominent plot characterised by the 19th century development of the area and its position within the commercial and communal heart of St. Marychurch. The property appears to have been heavily altered in the mid 20th century through the remodelling of its front façade to incorporate an additional storey and the introduction of a flat roof and rear extension which has compromised its original 19th century character. The site is therefore not identified as a key building within the CAA nor is it considered to meet the criteria to be classed as a non-designated heritage asset. However, the CAA does identify the site as having a 'largely unspoilt frontage' which is likely in recognition of its contribution to the established retail and traditional character of the street. Despite its remodelling, the site does appear to have retained some of its original character through the retention of its first-floor windows and the original eaves line just above the retained hopper head can still be read. As a result, the site currently makes a neutral to minor positive contribution to the significance of the conservation area and due to its prominent location and current condition has the potential to reinstate some of its original character which would enhance its significance and that of the conservation area.

Roman Church of Our Lady

Historic England identify this as a Grade I listed building, although, the St. Marychurch Conservation Area Appraisal and the Devon Historic Environment Viewer suggest that it is Grade II* listed. It is located to the NW of the site. The asset has clear architectural, artistic historic and communal value and a group value with the attached presbytery (Grade II) and former Dominican convent buildings, now Margaret Clitherow House (Grade II). The application site is within the urban setting of the asset and contributes to the overall quality of the historic environment within the area. The rear boundary wall which appears to have a close historic relationship with the church and the former Dominican convent buildings prior to the construction of St. Dominic's Close makes a positive contribution to the significance and setting of this asset.

Margaret Clitherow House

This is a Grade II listed building located to the west of the site. It was an orphanage, later used as priory and was constructed in 1865 to the designs of Joseph Hansom. The convent buildings were vacated by the Dominican nuns in the C20, and later became a residential home for older people. It also has clear architectural, artistic and historic value and a group value with the above-mentioned assets.

As above, the application site is within the urban setting of the asset and contributes to the overall quality of the historic environment within the area. The rear boundary wall which appears to have a close historic relationship with the church and the former Dominican convent buildings prior to the construction of St. Dominic's Close makes a positive contribution to the significance and setting of this asset.

Impact on Significance of Heritage Assets:

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

Impact on Significance of Heritage Assets:

Proposed Works	Overall Impact	Harm/Enhancement/Neutral	Commentary
<i>Demolition of rear boundary wall to form parking spaces and its reconstruction further into the site</i>	Low to SMCA and Roman Church of Our Lady and Margaret Clitherow House listed buildings	Harm	The rear boundary wall appears to have had a close historic relationship with the church and the former Dominican convent buildings prior to the construction of St. Dominic's Close. The demolition of historic fabric in situ would have a detrimental impact to its significance. In addition to this, its rebuilding at a different location within the site would permanently impact on its authenticity and integrity as part of the historic environment. This
			would have a further harmful impact which would not be mitigated by the reuse of existing material.
<i>Raising of height of existing building through the addition of a single storey to the principal building, demolition and replacement chimney stacks, introduction of pitched slate roof and through eaves dormers</i>	Moderate to SMCA, negligible to low to Roman Church of Our Lady and Margaret Clitherow House listed buildings	Harm	It is clear that the existing building has been extended upwards in the mid 20 th century which has had a detrimental impact on the historic character and appearance of the original building and the wider streetscape. Whereas the reinstatement of a pitched slate roof delivers a more appropriate roof form and material, the proposal to raise the height of the building by an additional storey would further exacerbate the already harmful impacts of the previous extension and would neither preserve nor enhance the character or appearance of the conservation area. The prevailing height of historic development along the street is clearly readable. The proposed raising of the height of the building would result in a building which rises considerably above this and would result in an alien and incongruous feature which would be unduly prominent in the street scene. The proposed demolition and replacement of chimney stacks and use of uncharacteristic through eaves dormers would add to the level of harm caused. When considered collectively with the proposed rear extension, the increase in the height, scale and massing of the proposed development as a whole would

			cause a degree of harm to all identified heritage assets.
<i>Demolition and replacement of rear extension</i>	Low to SMCA, negligible to low to Roman Church of Our Lady and Margaret Clitherow House listed buildings	Harm	The existing rear extension is in poor condition and there is no objection to its demolition and sensitive replacement. However, the height, scale, massing and use of through dormers and inset balconies results in an extension at odds with the established character of this part of the conservation area. This would cause demonstrable harm to the significance of the identified heritage assets.
<i>Replacement of existing first-floor timber sash windows</i>	Low to SMCA, no impact to Roman Church of Our Lady and Margaret Clitherow	Harm	The loss of the existing historic windows and their apertures without adequate justification and replacement with uPVC equivalents which are designed to relate to those inappropriately added in the mid 20 th century would be a harmful alteration to the existing building and would further dilute the historic character of the host building and the wider street scene UPVC windows are historically incorrect in their detailing and dilute the historic character of the property. The size of frame and joinery detail would be both incongruous and conspicuous for the age of the building and would have an adverse impact on the special interest and significance of the conservation area.

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

Considering that harm to a Grade I listed building has been identified, it is advised that Historic England be consulted on the proposals along with DCC Archaeology to assess any potential impact on archaeological remains.

Conclusions:

Although the proposals are considered to result in a low to moderate degree of 'less than substantial' harm to the overall significance of the identified heritage assets, this does not equate to a less than substantial objection and any harm to a designated heritage asset requires clear and convincing justification in line with paragraph 206 of the NPPF. Furthermore, in line with the Framework's paragraph 208, such harm should be weighed against the public benefits of the proposal. Given the statutory duty set out in Sections 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and the desirability of preserving or enhancing the character or appearance of the conservation area, significant weight should be given to the harm that I have identified to the historic environment. In line with the requirements of the NPPF, permission should be refused, unless it can be demonstrated that the harm caused can be outweighed by associated public benefits, whilst being mindful of the great weight which should be given to the conservation of heritage assets. This would be a matter for the overall planning assessment of the proposals. It is strongly advised that the proposals in their current form would be contrary to Policies SS10, HE1, DE1 and DE4 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan which requires development to conserve and enhance the conservation area and to respect local character.

It should also be noted that should the impact on designated heritage assets be considered a reason for refusal for the proposed development then in line with footnote 7 of the NPPF, the presumption in favour of sustainable development may not apply.

Historic England

“... Historic England Advice

The significance of the heritage asset(s) To the south west of the application site lies the Roman Church of Our Lady, Help of Christians and St Denis – a Roman Catholic church, presbytery, convent and school buildings built between 1865-81 to designs by Joseph Hansom. The funds for the complex were provided by the Potts-Chatto family in thanksgiving for the recovery of their son Denis from a serious illness. The church was originally listed in 1972 at grade II* but was upgraded to grade I in 2014. Because this post-dates your authority’s conservation area appraisal (CAA) for St Marychurch (2005) the document now incorrectly identifies the building as grade II*. Adjacent and attached to the church are the presbytery, and Margaret Clitherow House (originally an orphanage, then a convent, now a residential home for the elderly). These buildings are grade II listed. Together these buildings form an important group of religious buildings in the heart of the neighbourhood. The application is within the St Marychurch Conservation Area (CA), in the ‘Town Centre and Ecclesiastical Quarter’ character area. The CAA provides a detailed description of the area and the main reasons for its designation as an area of special character and appearance. Point 7.2 (p13) of the CAA helpfully lists features of note, including the ecclesiastical buildings and also the survival of boundary walls. The impact of the proposals on the heritage assets The development would lead to the extension of an existing property, 44 Fore Street with the creation of six apartments and retail space at ground floor. The extension proposed is considerable, introducing a change of footprint, massing and height to the building that does not reflect the existing character of the properties along this street. The existing pattern is two or three storeys in height – almost domestic scale, and reflective of the neighbourhood character of the area. The introduction of a pitched roof with large dormers set at the front of the roof will disrupt this local character through the creation of a four storey building. However, our greater concern rests with the development to the rear of the property which is a long, four storey addition to an already wide extension. The proposal will be eye-catching and overbearing because of its scale and height, and due to the introduction of large areas of windows and balconies on the gable end. The setting of the grade I listed church and its ancillary grade II listed buildings would be harmed by the proposals. The design is out of keeping with the conservation area and certainly does not preserve or enhance it. We consider that these impacts represent a high degree of unjustified harm to these important heritage assets. Whilst Margaret Clitherow House is no longer a convent and therefore strict privacy is no longer a requirement for its function, we do have some concerns about the impact of the balconies and windows on the gable end on the inherent character of the residential accommodation opposite. Extensive overlooking by at least the third floor of the new accommodation will be a major change to the character and experience of enclosure and privacy. We note that it is proposed to demolish the historic boundary wall that lies to the rear of the property, albeit with a new wall reconstructed. However, the new wall will be a replica rather than original historic fabric, and it will be on a different line. This is another harmful element of the proposals.

Policy issues

The Planning (Listed Buildings and Conservation Areas) Act 1990 identifies that conservation areas are ‘areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance’ (section 69, (1a)). Section 72 (1) states that ‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’. In our opinion, the current application does not align with these legislative requirements. Great weight should be given to the conservation of heritage assets, with greater weight applied the more important the asset (National Planning Policy Framework (NPPF), paragraph 205). Given that one of the heritage assets affected is grade I and that other grade II buildings and a conservation area are impacted by these proposals, we consider that very great weight should be given to their conservation in your determination of the application. When harm is the result of a proposal this should have clear and convincing justification (NPPF, paragraph 206). In our opinion it is perfectly possible to develop this property without causing harm to heritage assets. This could be achieved by reducing the scale of extension and changing the number and/type of apartments. This would balance conservation with the provision of new housing. Therefore, we do not believe that the current proposals are robustly justified. After any conflict between the conservation of heritage assets and development proposals has been avoided or minimised (NPPF, paragraph 201), any remaining harm should be balanced against any public benefits brought forward by the proposals. This is an exercise for your authority to undertake, bearing in mind NPPF, paragraph 201.

Historic England's position

We consider that the proposals cause unjustified harm to various heritage assets, in particular the ecclesiastical complex of the Church of Our Lady, Help of Christians, and St Denis. The significance of this ecclesiastical complex, where a part of that significance stems from its setting, would be harmed. Allowing an extension of this scale to a building in the conservation area would also cause harm, and potentially set a very unfortunate precedent for other development. There are opportunities to balance the positive redevelopment of this site and the enhancement of the conservation area. However, at present the overdevelopment of the site results in an unacceptable level of harm being caused.

Recommendation

We recommend that the proposals are radically altered to avoid the heritage harm that we have identified, or that the application is withdrawn or refused. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 201, 205, 206 and 208 of the NPPF. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess; and section 72(1) of the same Act, to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us”.

Summary Of Representations

Approximately two objections, one representation and one representation in support of the proposals have been received:

OBJECTIONS

- Would dominate and undermine character of shopping precinct.
- Height would be out of line with prevailing roof heights.
- Rear extension would be over-dominant.
- Out of character with Conservation Area and character of local area.
- Concern about effect on tourism character of area.
- Concern about increased on street parking pressure.
- Proposed building would be too tall and overbearing when viewed from St Dominics Close.
- Concern about proposed on-site parking provision.
- Proposal does not appear to include any facility to rehouse resident bat species within property.

REPRESENTATIONS

“This building is in a poor state so redevelopment is to be welcomed and the mixed use of residential and commercial is appropriate. However, McCarthy have a habit of submitting proposals for buildings that are one storey too high in order to maximise their investment and this one is no exception. The surrounding buildings are 2 storey and this low rise development typifies the Victorian nature and charm of St MaryChurch and its conservation area. The front view shows a handsome building with quite graceful proportions, if one storey to high. The rear aspect however is not a happy design. It is quite messy, introduces balconies to an area where there are none, and the top window in the roof is incongruous. The buildings it faces -the Priory-are 3 storey maximum. The internal area of the flats appears small and the development might benefit from one flat and one storey being removed. The rear aspect in particular is going to tower over the street scene which is dominated at present by the Priory. Providing 2 parking spaces is clearly insufficient. Who are they expecting to purchase these flats? There is no secure parking close by and more needs to be provided on site. Introducing a four storey building here will set a precedent, so whilst not formally objecting, more support might be forthcoming if McCarthy respected the nature of St MaryChurch and scaled back their size ambitions a little. 186 St Marychurch Rd”

SUPPORT

“Welcome to maintain precinct as a shopping area and provide local homes”.

Relevant Planning History

None.

Planning Officer Assessment

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

1. Principle of Development, Housing and Affordable Housing
2. Visual Impact
3. Impact on Heritage Assets
4. Amenity
5. Highways and Movement
6. Ecology
7. Trees & Hedgerows
8. Flood Risk & Drainage
9. Low carbon Development.

1. Principle of Development, Housing and Affordable Housing

The proposal seeks permission for “*Extension and reconfiguration of mixed-use residential-commercial building to six apartments. Existing commercial space to be retained*”. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

The proposal would retain the existing ground floor retail unit and would create six flats, comprising two, two bedroom flats at the front of the building facing Fore Street at first and second floor levels, with a third within the proposed pitched roof space. Additionally, three one bedroom flats within the rear ground, first and second floors of the replacement rear extension to be created.

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.

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.

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 in favour of sustainable development 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 new accommodation. However, in this case, officers consider that the proposal would conflict with Policies DE1, DE4, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood 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.

2. 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 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 site is a terraced building along the pedestrianised section of Fore Street. It would originally have been built as a two storey house but in common with all other buildings along Fore Street has been converted into a retail unit at ground floor. At some point in the past the original pitched slate roof has been removed to create a new third storey with a flat roof leading to a three storey building when viewed from Fore Street (ground, first and second floors). To the rear a modern three storey extension has also been built (basement/ground, first and second floors), again with a flat roof.

It is evident that the first and second floors at the front of the building were previously used as flats (first and second floors). It also appears that the rear sections of the building (basement/ground, first and second floors) would also have been used as flats in the past.

The building has been allowed to decay and is now dilapidated and unsafe to live in. The front portion of the building is in relatively good repair. However, the modern three storey rear extension is in a visible state of disrepair, with windows missing, cracks in exterior walls and sections of flooring missing, having rotted away. A lesser Horseshoe Bat currently uses the basement section of the building as an occasional roost (see ECOLOGY below), being able to fly in through the broken window apertures at the rear.

Officers have asked the applicant whether the existing rear extension could be repaired and made good. The applicant has advised that it has deteriorated too far, would be unsafe to work in and that, in the applicant’s estimation, it will collapse within 12 months if not demolished first. The applicant has also made the point that the rear extension is too small to accommodate even one bedroom flats on each level and would not meet Nationally Described Space Standards. Also, that the position of the internal staircase within the building, which separates the front part of the building from the rear extension, and which runs parallel to Fore Street is not wide enough to meet current Building Regulations and will need to be adjusted, along with internal floor levels.

Having visited the site externally and internally officers cannot see any obvious way in which the rear extension could be salvaged in its current condition.

The proposal

The proposal is to retain the existing retail space at ground floor level. It appears that the existing retail unit may have comprised two separate smaller retail units in the past, with an external door from Fore Street to both spaces, and it is possible that the site may be subdivided again in future through the creation/re-instatement of an internal partition wall. This would not need permission as the building is not a listed building.

The building would be extended upwards to create an additional storey (i.e. a fourth floor). The rear of the building would be extended to create five flats within the ground, first and second floors of the building. A sixth flat would be created in the new roof of the building as proposed (i.e. the fourth floor). The proposal is to create three two bedroom flats above the existing retail unit facing onto Fore Street (at existing first and second floor levels and within the proposed additional storey) and three one bedroom flats within the rear section of the building as extended (ground, first and second floors).

The proposal involved changing some internal floor levels within the building (which does not need planning permission) as well as changing ground levels at the rear of the building and within the existing rear garden.

The proposal has three main elements:

Rear extension

The existing rear extension would be demolished and replaced with a new rear extension which would extend back a total of approximately 19.3m from Fore Street, as compared with the current depth of approximately 14.3m. Both of these figures include the depth of the original building itself and so, in other words, the proposal involves demolishing the existing rear extension and rebuilding it approximately 5m further beyond the existing rear wall of the building.

The new rear extension as proposed would necessarily have different fenestration to the existing rear extension and would incorporate new inset balconies at first and second floor levels.

New roof and additional storey

The proposal would introduce a new pitched roof over the front section of the building facing onto Fore Street. The building is built on a slight incline heading uphill towards the northwest. Measured from the centre of the door to the existing retail unit in the middle of the building, the proposed additional storey would raise the existing flat roof height from approximately 10.5m to 13.5m (i.e. to the ridge of the new proposed ridge). The rear extension as extended in depth would also be covered by a new pitched roof, raising the height of the existing flat roof from approximately 8m to 12m. It is important to remember that the ground level at the rear of the building is lower than at the front and so the extension in roof height would still be marginally below, by approximately 25cm, the ridge height of the new pitched roof covering the front of the building and so would appear as being subservient to it. The new roof sections at the front and rear of the building would be used to accommodate a new two bedroom flat.

The new pitched roof would have three new dormer windows in the front elevation facing Fore Street and a new dormer facing St Dominic's Close in the rear. Existing windows in the front elevation facing onto Fore Street would be left unchanged.

Rear garden and parking

The existing rear garden is bordered by a tall historic limestone wall which would have dated from the time when the original house was constructed. The existing garden would be reduced in size due to the proposed increase in depth of the existing rear extension.

Outside of the rear boundary wall there is a sizeable verge between the wall and the pavement along St Dominic's Close. This verge would be replaced with two parking spaces for two of the proposed flats as well as a stone clad bin store for all six flats proposed and a new stone clad "bat house" to provide an

alternative occasional night roost for the Lesser Horseshoe Bat which is currently using the rear of the building as an occasional night roost. There are two existing self-seeded sycamore trees within the verge. The creation of new parking spaces etc. may damage the root protection area of these trees. The Council's arboriculture officer has advised that these trees should be replaced with two ornamental pear trees.

A small dwarf limestone wall at the back of the verge next to the pavement would be removed to facilitate the parking spaces.

Assessment

Building heights and building styles along the pedestrianised precinct of Fore Street are not uniform. The ground slopes up from the south east to the north west and as a consequence buildings step up the slope. There are nevertheless a number of prominent buildings that far exceed prevailing roof heights of neighbouring buildings. Most obviously, a red brick building (no. 11 Fore Street, a Victorian Key Building) on the other side of Fore Street a few metres further down the precinct to the south east is noticeably taller than the neighbouring buildings on either side. Some buildings, including several opposite the site, have existing modern dormer extensions, though these are not readily visible from Fore Street itself as they are set back up the roof slope of the buildings concerned and Fore Street itself is quite narrow. There are wide variety of window styles at upper stories within the properties along Fore Street, including oriel windows bay windows, windows with square heads and curved heads. There is no uniform dimension to windows and many appear to be modern uPVC.

Front elevation

With that said, it is apparent that the proposals would raise the ridge of the building facing Fore Street by around 3m and, in doing so, would extend the roof line of no. 44 above the ridges of the buildings on either side by approximately 3m. Officers are mindful that no. 44 has already had one additional storey added to it at some point in the past through the removal of the pre-existing pitched roof and replacement with the existing flat roof. In this case, officers consider that the creation of what would be in effect a second additional storey, creating a four storey building, would amount to overdevelopment and would not be appropriate to the location, historic character and setting of the development. Officers consider that the proposed additional storey is unacceptable for this reason. Officers also consider that the proposals, by disrupting the general (albeit not uniform) appearance of buildings stepping up Fore Street, would be detrimental to the existing street scene to an unacceptable degree. 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.

Officers have checked how tall the site with the proposed additional storey would be relative to no. 11, which appears to be the tallest existing building along Fore Street. The Council has records for two planning applications at no. 11 (P/1989/1906 and P/1989/1907). Unfortunately, neither of these cases include complete elevation plans and so it has not been possible for officers to measure the height of no. 11. It does nevertheless appear that, if the current application were to be approved, then no. 11 would remain as being the tallest building along Fore Street.

As noted above, Fore Street is relatively narrow. When walking along Fore Street the eye is naturally drawn towards the existing shop fronts along Fore Street rather than to the roofscape. Again, as noted above, some existing dormer extensions to buildings along Fore Street are not readily visible from it due to the relative narrowness of Fore Street.

Officers consider that it is unlikely that the new proposed pitched roof or associated dormers in the front elevation of the building facing Fore Street would be substantially visible, or visible at all, from directly outside of the site due to the angles involved. The applicant has provided CAD drawings that show what would be visible from a few metres away from either side of the building along Fore Street and these drawings indicate that very little of the proposed pitched roof and associated dormers would be visible. On balance, it appears that the additional storey to the building as proposed (i.e. the proposed new pitched

roof) would be most prominent when viewed from around the pedestrianised cut through from St Dominic's Close to the south east of the site (i.e. next to the Dolphin Inn pub) and from higher up Fore Street towards the junction of Rowley Road with Fore Street to the north west, although this is difficult to determine with any accuracy.

Rear/side elevations

Officers consider that the proposed rear balconies, increase in footprint of the proposed rear extension and rise in height of the roof over the rear extension are unlikely to be substantially visible from St Dominic's Close behind the site given the presence of the existing tall limestone wall and, in common with the proposed new parking area and bin store/bat house, would be unlikely to be detrimental to the existing street scene such that refusal is warranted.

The proposed rear extension is likely to be most prominent viewed from outside of the rear of no. 42 Fore Street on St Dominic's Close. From this vantage point the side of the proposed replacement rear extension would present as a largely featureless wall, as it does today. That said, the proposed side of the replacement rear extension would be approximately 5m deeper than the current extension and would have an increased height of approximately 9.3m to eaves level, as compared with approximately 8.3m today, and with the pitched roof replacing the existing flat roof approximately 3.5m high. The proposed rear extension would include privacy screens to the proposed recessed balconies at first and second floors, which would add some visual interest and help to break up the otherwise featureless wall comprising this side of the building. Officers have considered this issue carefully but do not consider that the visual appearance of the rear of the building as proposed amounts to a reason for refusal.

The proposed elevation plans identify that new glazing (i.e. for the new proposed dormers in the front of the building and the new fenestration in the rear of the building) would be uPVC. Officers do not consider that this would be an appropriate materials choice within the St Marychurch Conservation Area. If planning permission were to be granted, however, then planning conditions could be used to require the use of timber window frames and so this is not of itself seen as being a reason for refusal.

On balance, 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.

3. Impact on Heritage Assets

The Planning (Listed Buildings and Conservation Areas) Act 1990 identifies that conservation areas are 'areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance' (section 69, (1a)). Section 72 (1) states that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

The Planning (Listed Buildings and Conservation Areas) Act 1990 also 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 (Section 66).

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 within the St Marychurch Conservation Area. Neither no. 44 itself, nor the buildings on either side, have any individual heritage designation of their own. However, the site is nevertheless within the Conservation Area and is in relatively close proximity to Grade I and Grade II listed religious buildings behind the site on the other side of St Dominic's Close. As noted above, Grade II listed Margaret Clitherow House is approximately 26m from the rear of the existing building and the Grade I Roman Church of Our Lady is approximately 50m distant from the existing rear elevation of the site. If planning permission were to be granted these distances would reduce to approximately 21m and 45m respectively.

It is important to note that some of the specific aspects of the proposals that both Council's Principal Historic Environment Officer and Historic England have raised concerns about are no longer included within the proposals.

The applicant has submitted revised plans that post-date comments from the Council's Principal Historic Environment Officer, and which cross with comments from Historic England. The date of Planning Committee means that there has been no opportunity to reconsult on the revised proposals.

The main differences between the plans that the Council's Principal Historic Environment Officer and Historic England have advised on and the current revised proposals are that; (i) the proposals now retain existing fenestration in the front elevation of the building facing onto Fore Street (the proposals previously included replacing all such openings), (ii) the proposals now include new dormer windows set further up the proposed new roofs in the front and rear elevations (these dormers were previously proposed to extend down to eaves level), although this has in turn led to the proposed ridge height of the building rising by approximately 30cm, and (iii) the existing tall rear limestone boundary wall is now proposed to be left in place (previously it was proposed to be demolished and rebuilt).

The applicant has clearly attempted to respond to the heritage and design related concerns that officers have raised with them over a period of several weeks. The applicant has also made it clear that they would be willing to make other design concessions, including for example the removal of the proposed balconies from the plans. It should be noted that this is not something officers have asked for, as officers consider that the proposals are unacceptable in other respects, and so the proposed balconies are still included with the current application.

The comments received from the Council's Principal Historic Environment Officer and Historic England both identify that the (i) proposed additional storey (to both the front and rear elevations of the building); (ii) the increase in footprint of the existing rear extension; (iii) the proposed rear balconies; and (iv) the proposed use of materials as regards new fenestration, are unacceptable.

Historic England have advised variously that

"...The introduction of a pitched roof with large dormers set at the front of the roof will disrupt this local character through the creation of a four storey building. However, our greater concern rests with the development to the rear of the property, which is a long, four storey addition to an already wide extension. The proposal will be eye-catching and overbearing because of its scale and height, and due to the introduction of large areas of windows and balconies on the gable end. The setting of the grade I listed church and its ancillary grade II listed buildings would be harmed by the proposals. The design is out of keeping with the conservation area and certainly does not preserve or enhance it. We consider that these impacts represent a high degree of unjustified harm to these important heritage assets..."

Historic England's position

We consider that the proposals cause unjustified harm to various heritage assets, in particular the ecclesiastical complex of the Church of Our Lady, Help of Christians, and St Denis. The significance of this ecclesiastical complex, where a part of that significance stems from its setting, would be harmed. Allowing an extension of this scale to a building in the conservation area would also cause harm, and potentially set

a very unfortunate precedent for other development. There are opportunities to balance the positive redevelopment of this site and the enhancement of the conservation area. However, at present the overdevelopment of the site results in an unacceptable level of harm being caused.

Recommendation

We recommend that the proposals are radically altered to avoid the heritage harm that we have identified, or that the application is withdrawn or refused..."

Given the assessment by Historic England as paraphrased above, and as echoed in advice from the Council's own Principal Historic Environment Officer, then, notwithstanding changes to the design of the proposals that have been made (i.e. retention of existing fenestration in the front elevation and the existing tall limestone wall bordering the rear of the site) it is clear that the proposals do not go far enough to counter the less than substantial harm to the character of the Conservation Area and setting of the adjacent listed buildings that has been identified.

Officers have carefully considered whether the public benefits associated with the proposals outweigh the harm to heritage assets that has been identified. These include (i) the creation of new residential accommodation at a time when the Council cannot demonstrate a three year housing land supply; (ii) jobs for local people during construction; (iii) the redevelopment of a building in a very clear state of disrepair and possibly at risk of partial collapse; (iv) safeguarding the future of the existing ground floor retail unit (which may become too dangerous to use in future if the building as a whole is not renovated); (v) the financial benefits that future occupiers of the building, if planning permission were to be granted, could be expected to bring to local shops in close proximity to the site through day to day shopping etc.

Officers have considered these benefits both from the perspective of the details within the submitted application, which states that the proposals involve the addition of one new additional residential unit (the proposed two bedroom flat in the proposed new roof space, in addition to five "existing" residential units), and also from the perhaps more realistic perspective that the proposals would provide six new high quality residential flats in a building that it currently too unsafe and dilapidated to accommodate any.

In both cases, officers have concluded that, notwithstanding the recent design revisions that have been made, the public benefits associated with the proposals are not sufficient to outweigh the harm that has been identified.

With the above in mind officers therefore consider that the proposal is contrary to Policies SS10 and HE1 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and advice contained in the National Planning Policy Framework; in particular paragraphs 205 and 208.

4. 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 flats should have at least 10sqm 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

Ground floor (floor 1)

- Unit 0.1 would have a Gross Internal Area(GIA) of approximately 50sqm with a double bedroom and access to the rear garden with a GIA of approximately 17sqm.

First floor (floor 2)

- Unit 1.1 would have a Gross Internal Area(GIA) of approximately 53sqm with a double bedroom and a balcony with a GIA of approximately 7sqm.

- Unit 1.2 would have a Gross Internal Area(GIA) of approximately 72sqm with two double bedrooms and no outdoor amenity space.

Second Floor (floor 3)

- Unit 2.1 would have a Gross Internal Area(GIA) of approximately 54sqm with a double bedrooms and a balcony with a GIA of approximately 7sqm.
- Unit 2.2 would have a Gross Internal Area(GIA) of approximately 74sqm with a double bedroom and two single bedrooms and no outdoor amenity space.

Third Floor (floor 4)

- Unit 3.1 would have a Gross Internal Area(GIA) of approximately 87sqm with two double bedrooms and no outdoor amenity space.

All six units meet or exceed Nationally Described Space Standards. Units 0.1, 1.1 and 2.1 would have some limited outdoor amenity space, whereas units 1.2, 2.2 and 3.1 would have no outdoor amenity space. Whilst not ideal, officers consider that the lack of adequate outdoor amenity space (a minimum of 10sqm per flat) is acceptable here given the site's location in a sustainable Local Centre and given its proximity to green open spaces.

Outlook from the proposed new flats and access to natural light appears to be acceptable. It is apparent from the proposed plans that the bedroom within Unit 0.1 would not have any windows or direct access to natural light. Officers understand from the applicant that Unit 0.1 is intended to be a studio flat with light provided from the proposed patio doors leading onto the rear garden area. If planning permission is granted then a planning condition could be used to require the plans to be amended to remove the internal partition walls shown on the plans separating the bedroom from the proposed kitchen, living room, dining room space to increase natural light to the bedroom area.

A Communal bin and bike store has been identified at the rear of the property.

Neighbour amenity

Officers consider it unlikely that any significant new neighbour impacts would occur. Units 1.1, 2.1 and 3.1 would have windows facing onto Fore Street. Fore Street is a relatively narrow pedestrianised street in the region of 8m wide. However, officers are mindful that many of the upper stories to properties along Fore street appear to have already been converted into flats and that the site itself previously had residential flats in the upper stories. Significant new overlooking to and from the properties opposite therefore appears unlikely to occur.

At the rear of the site, overlooking to any property would not be possible from Unit 01. Units 1.1 and 2.1 would be approximately 20m distant from St Mary's Dominican Convent behind the site and as such officers do not consider that any significant new overlooking is likely to occur. Again, it should be remembered in this respect that the rear rooms of the existing dilapidated rear extension also appears to have been used for residential purposes in the past. The proposed balconies for Units 1.1 and 2.1 would be fitted with privacy screens to prevent any overlooking to properties to the south east.

Officers consider it is unlikely that the proposals would result in any significant new overshadowing to properties on either side at the rear and would not be visually intrusive or overbearing to neighbours.

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.

5. Highways and Movement

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. Policy TA3 and Appendix F of the Local Plan states that new residential flats should be served by a single parking space each. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development.

The site is within a sustainable location within a successful Local Centre. It is in close proximity to bus stop providing access to other parts of Torquay. The site is in close walking distance to at least two Council car parks.

The proposal would create a total of six flats (three two bedroom and three one bedroom) above the existing retail unit to be retained and would create two new parking spaces at the rear of the site across the existing verge. Torbay Highways have reviewed the proposed parking provision and have found it to be acceptable subject to a condition allocating each parking space to an identified flat.

Highways have also commented that cycle storage should be provided via Sheffield Stands (which enable cycles to be stored on the ground) as opposed to via hanging racks (as was originally proposed), so that they can be used by all future occupants of the building regardless of physical condition.

The current proposed layout plans show six covered cycle storage spaces in a Sheffield Stand arrangement.

The proposal is therefore considered to be acceptable with regards to Policies TA2 and TA3 of the Torbay Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

6. Ecology

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale.

The proposed layout has been revised on advice from officers such that, if planning permission were to be granted, no more than 25 sqm of habitat would be lost. The proposals are therefore considered to benefit from the De-minimis exemption from Bio-diversity Net Gain requirements.

As noted above, a single lesser Horseshoe Bat is currently using a part of the building as an occasional night roost.

The proposals include a "bat house" next to the proposed bin store to provide the bat with a replacement roost facility. The proposal and the submitted ecology reports provide by the applicant have been reviewed by a Senior Ecologist at Devon County Council and have been found to be acceptable.

The proposed development is therefore considered to be in accordance with Policy NC1 of the Torbay Local Plan.

7. 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.

The proposals would remove one self-seeded Sycamore tree at the rear of the property and has the potential (through formation of the proposed parking area, bin store and bat house) to affect the root protection areas of two self-seeded Sycamore trees to remain.

The proposals have been reviewed by the Council's Arboriculture officer who has advised that:

"... I would not require a BS5837 tree survey and would accept the loss of both trees, if we could secure better quality replacement planting. New trees located in the centre of each retained soft landscape area would make a positive contribution to the street scene, which is currently quite urban with little soft / natural features. I would recommend planting with an ornamental Pear (Pyrus calleryana 'Chanticleer') which performs well in the area. 6 - 8cm girth nursery stock are widely available from various nursery suppliers. So no objections to the development on arboricultural grounds, and opportunities to enhance the setting of the CA with new planting".

With the above in mind, if planning permission is granted then a planning condition can be used to ensure the removal of the existing trees and their replacement with two ornamental pear trees.

The proposal is therefore considered to be in accordance with Policy C4 of the Torbay Local Plan.

8. 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 site specific Flood Risk Assessment which has been reviewed by the Council's Drainage engineer and found to be acceptable.

The proposal is therefore considered to be in accordance with Policy ER1 of the Torbay Local Plan.

9. 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.

The proposed development utilises existing openings where possible and includes new double glazed windows. The proposed development is therefore considered to meet the requirements of Policies SS14 and ES1 of the Torbay Local Plan.

Sustainability

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

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. As discussed above, future occupants of the proposed flats are likely to carry out some of their shopping for goods and services from existing shops within the Fore Street shopping precinct and this could be expected to contribute to the viability of the precinct as a whole. The proposal would also safeguard the future operation of the existing ground floor retail unit which, without the wholesale renovation of the building, may become unsafe to work in in the future.

The Social Role

The principal social benefit of the proposed development would be the provision of high quality accommodation at a time when the Council cannot demonstrate a three year housing supply. As discussed above, whilst the submitted plans show an increase of a single residential unit (the new two bedroom flat proposed in the proposed additional storey) in practice the proposal will deliver six flats (three one bedroom and three two bedroom) in a building that is currently unoccupied and unsafe to live in.

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 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 and promotes a car free form of development with suitable cycle storage for occupants.

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent sustainable development excepting that the impact on heritage assets as identified by the Council's Principal Historic Environment Officer and Historic England are considered to be unacceptable.

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 new accommodation. 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 of the Torbay Local Plan.

Impact on heritage assets & visual appearance

The proposed development, by reason of the additional height involved with the additional storey, the increase in footprint to the existing rear extension, its unsympathetic design, location within the St Marychurch Conservation Area and proximity to Grade I and Grade II listed religious buildings behind the site fails to preserve or enhance the character and appearance of the conservation area and would result in less than substantial harm to the setting of the designated heritage assets. The public benefit of the provision of the residential units included with the proposals is clearly outweighed by the visual impact on the Conservation Area and listed buildings. 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 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 (in particular paragraphs 205 and 208) and the requirements of sections 66 and 72(1) of Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning balance

The benefit of the provision new accommodation on the site (whether this is viewed as the addition of one new unit of accommodation or six units of accommodation) is clearly outweighed by the visual impact on the adjacent heritage assets and harm to the visual 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.