

Thursday, 21 March 2024

PLANNING COMMITTEE

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

Tuesday, 2 April 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 Maddison (Chairwoman)

Councillor Billings (Vice-Chair)

Councillor Mandy Darling

Councillor Fox

Councillor Pentney

Councillor Tolchard

Councillor Virdee

Councillor Brook

Councillor Strang

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 4 March 2024.

(Pages 4 - 7)

3. **Disclosure of Interests**

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

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

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

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

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

4. **Urgent Items**

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

5. **Mouse Cottage, Brim Hill, Torquay (P/2023/0750)**

Demolition of existing dwelling, construction of replacement dwelling, alterations to parking areas, landscaping works to include decking, terraces and swimming pool and associated works.

(Pages 8 - 37)

6. **Riviera International Conference Centre, Chestnut Avenue, Torquay (P/2023/1044)**

Change from disused tennis courts to four padel courts with additional parking and lighting.

(Pages 38 - 60)

7. St Kilda, 15 Drew Street, Brixham (P/2023/1026)

(Pages 61 - 81)

Variation of Conditions relating to P/2021/0531 (Partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa. Vary Condition 08: Wording for Schedule of Internal Repair, Condition P1 - Approved Plans: Alter roof material to natural slate and addition of Solar PV. (Revised plans received 05.03.2024).

Public Speaking

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

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

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

Site Visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 27 March 2024. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Live Streaming

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

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

Minutes of the Planning Committee

4 March 2024

-: Present :-

Councillor Maddison (Chairwoman)

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

42. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group and the Liberal Democrat Group, the membership of the Committee had been amended to include Councillors Brook and Penny in place of the Conservative vacancy and Councillor Mandy Darling respectively.

43. Minutes

Subject to the changes set out below, the minutes of the meeting of the Committee held on 15 January 2024 were confirmed as a correct record:

Former Dairy Crest Depot, Parkfield Road, Torquay (P/2023/0131)

~~1. the following additional condition:~~

- ~~1. that the affordable housing viability assessment be submitted to the Planning Committee prior to a decision being reached on the affordable housing obligation;~~

~~Reason: to promote transparency and public confidence in the decision making process.~~

1. the following additional condition to be delivered through additional wording within the accompanying section 106 legal agreement in place of a planning condition (as approved by the Planning Committee on 4 March 2024):

- (a) that the affordable housing viability assessment be submitted to the Planning Committee prior to a decision being reached on the affordable housing obligation;

Reason: to promote transparency and public confidence in the decision making process.

Reason for variation: The legal agreement is the mechanism that secures further viability reassessment of the affordable housing obligation, including the terms of submission and potential agreement. Request for additional wording within the clause that any future viability assessment regarding this matter is submitted and agreed in consultation with the Planning Committee.

44. Singleton Gardens, Meadfoot Sea Road, Torquay (P/2023/0994)

The Committee considered an application for extensions and alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse and outbuilding, landscaping and associated works.

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 Ms Alexandra Hemming addressed the Committee against the application. Mr Mike Cowdrey addressed the Committee on behalf of the Torquay Neighbourhood Forum against the application. Mr Daniel Metcalfe addressed the Committee in support of the application.

At the meeting the Planning Officer advised that since the report had been published a further 9 objections and 1 letter of support had been received. The further objections did not raise any new material planning considerations that had not already been addressed within the submitted report. One of the further objections contended that there was insufficient heritage information provided with the application and that there had been insufficient analysis of the impact on designated and non-designated heritage assets. It was the Planning Officer's opinion that the application submission, consultation response from the Council's Principal Historic Environment Officer and the submitted report adequately covered the impacts of the proposal on both designated and non-designated heritage assets.

Resolved:

Approved subject to:

1. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;
2. the following additional condition:
 - (a) Notwithstanding the details of approved plan '818-EM1', prior to the installation of the flagstone slabs hereby approved, details of the flagstone slabs shall be submitted to and approved in writing by the Local Planning Authority. Works shall proceed in accordance with the

approved plans and shall be permanently retained as such thereafter;
and

Reason: In the interests of the appearance of the development and the surrounding area within the Conservation Area in accordance with Policies DE1 and SS10 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

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

45. 36 Dunstone Park Road, Paignton (P/2022/0091)

The Committee considered an application for demolition of house and garage and formation of three storey detached dwelling, including garage and vehicular access.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website.

At the meeting Mrs Louise Murphy addressed the Committee against the application. Mr Richard Maddock and Mr Julian Daniel addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published a further 2 objections had been received. One of the further objections suggested that insufficient information had been provided with the application alongside an inadequate assessment of the lighting impacts to the windows of 34 Dunstone Park Road together with the impact on its solar panels with reference to Building Research Establishment (BRE) guidance. The Planning Officer explained that the BRE standards quoted were guidance.

The Planning Officer informed the Committee that the submitted report outlined first hand knowledge of the relationship between the dwellings from the site visit and neighbouring comments. The submitted application also considered the relationship between the dwellings. It was the Planning Officer's opinion that all of these factors provided adequate analysis of the relationship and impacts.

Resolved:

Approved subject to:

1. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of

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

46. Hotel Virginia, Falkland Road, Torquay (P/2023/0868)

The Committee considered an application for demolition of a vacant hotel and construction of 14 apartments with associated landscaping works.

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 Ms Margaret Forbes-Hamilton addressed the Committee on behalf of the Torquay Neighbourhood Forum against the application. Mr Daniel Metcalfe and Mr Brett Powis addressed the Committee in support of the application.

Resolved:

That the application be refused for the reasons and informative set out in the submitted report.

(Note: Prior to consideration of the item in Minute 46, Councillor Strang declared a pecuniary and non-pecuniary interest and withdrew from the meeting).


Chairwoman

TORBAY COUNCIL

Application Site Address	Mouse Cottage Brim Hill Torquay TQ1 4TR
Proposal	Demolition of existing dwelling, construction of replacement dwelling, alterations to parking areas, landscaping works to include decking, terraces and swimming pool and associated works.
Application Number	P/2023/0750
Applicant	Mr Simpson
Agent	Mr Wells
Date Application Valid	25/08/2023
Decision Due date	20/10/2023
Extension of Time Date	05/04/2024
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by Cllr G. Darling following the SRM procedure.
Planning Case Officer	Verity Clark

Location Plan



 **OS SITE LOCATION PLAN**
1:1250 @ A3
0 5 10 25 50m

Site Details

The application site is a detached residential dwelling located on Brim Hill, Maidencombe, Torquay.

The site is located within open countryside, the undeveloped coast, partly within flood zone 3, is covered by an area tree preservation order (TPO) and is within the Maidencombe village envelope. The site is also directly adjacent to the Maidencombe Conservation Area and a local nature reserve. The Grade II listed building 'Court House' is located to the north east of the site.

Description of Development

The application seeks consent for the demolition of the existing dwelling and the formation of a replacement contemporary two-storey dwelling, including alterations to

the parking areas, landscaping including decking and terraces, a swimming pool and associated works.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Policy Guidance (PPG)
- Published standing Advice
- Maidencombe Conservation Area Appraisal
- 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:

No objection -

The Highways Standing Advice would apply to the above application. If the Development fails to meet the requirements of the HSA, it should be considered as an objection by the Local Highway Authority.

Waste Officer:

No objection -

I would have no objection to this development. I can see that there is adequate space for storage of recycling and waste. Collections already take place on Brim Hill. Residents will need to move their containers to the curtilage of the property for collection.

Community Safety:

No objection –

Further to your recent consultation regarding the above application I would confirm that I have no objections subject to the inclusion of the following condition: Construction/Demolition Management Plan.

Senior Tree Officer:

No objection -

The application proposes the demolition of the existing dwelling and replacement with a new dwelling and associated infrastructure.

The existing building has an acceptable spatial relationship to the surrounding trees, and the proposed layout does not infringe or impact on existing trees.

The proposed layout is not affected or likely to be compromised by daylight shading due to its orientation to existing trees.

The application is supported by an arboricultural appraisal of the trees, tree constraints and project objectives. The report has been produced by Dart Tree Consultancy Ref: AIA-MOU-22.

The application is supported by a Tree Protection Plan Ref: TPP-MOU-22 which makes provision for the retention and protection of existing trees. Section 8.3 of the report clearly stipulates the installation of Construction Exclusion Zone fence prior to the commencement of the development. Section 10 of the report provides the specification for the fence (Fig 2 BS5837).

Recommendations:

If planning permission is granted a planning condition must be applied to secure the recommendations of the Dart tree report and Tree Protection Plan. The tree protective fencing must be fixed into the approved positions and maintained for the duration of the development.

Drainage Engineer (surface water drainage and flood risk):

Response dated 4/10/23:

Objection -

1. Part of the site is located in Flood Zone 3 and as a result the developer has submitted a site specific flood risk assessment.
2. In addition, the developer has submitted details of the proposed surface water drainage system for the new development. This incorporates attenuation which discharges at a controlled rate to a soakaway which has an overflow to an infiltration trench.

3. No infiltration testing has been carried in accordance with BRE 365. The only infiltration testing undertaken was within two boreholes. The infiltration testing must be carried out in accordance with BRE 365 at the proposed location and invert level of the soakaway and the infiltration trench. The results of this infiltration testing must be used within the design of the surface water drainage.
4. The borehole infiltration testing that has been carried out are at a depth of 2.16m and 1.35m respectively. Based on the location of these boreholes the invert level of these boreholes is well above the proposed invert level of soakaway. Therefore, the infiltration rates obtained from the boreholes are not suitable for the design of the soakaway.
5. The proposed discharge rate from the attenuation tank to the soakaway has been set at 0.3l/sec. This will result in a drain down time for the tank when full of approximately 40 hours. As a result of this excessive drain down time, there would be a risk of flooding from the proposed surface water drainage system when considering follow on storm events. This has not been considered within the submitted design.
6. Within the submitted hydraulic design the attenuation tank has been incorrectly modelled. The depth/area identifies that at 1.2m deep the area is 38.5m² and at 1.6m deep the area is 0m² whereas the tank should be modelled with the area at 1.2m deep being 38.5m² and at 1.201m the area should be 0m². The way the tank has currently been modelled provides additional storage volume within the hydraulic model that in reality does not exist.
7. The infiltration rate identified from the boreholes are identified as Borehole 01, 9.03x 10⁻⁷, 1.26x10⁻⁷ and 1.13x10⁻⁶ and at Borehole 2, 9.04x10⁻⁶, 1.71x10⁻⁷ and 6.00x10⁻⁷. Within the hydraulic modelling the infiltration rate that has been used is 6.00x10⁻⁷ whereas the lowest figure is actually 1.26x10⁻⁷ and this is the figure that should be used in the hydraulic modelling. It should be noted that the testing and infiltration rate obtained from the testing is at the incorrect level for the proposed soakaway as identified in point 4 above.
8. Within the hydraulic modelling pipe number 1.005 is identified as having a diameter of 150mm whereas on the drawing the diameter is 100mm.
9. The proposed development drawings include a new swimming pool located on the site. Within the flood risk assessment and surface water drainage design there is a statement that special measures will be undertaken for discharging flows from the swimming pool however no details of these special measures have been provided.
10. Previously we identified that, due to the topography of the land and the risk of re-emergence of flows downstream, the soakaway and infiltration trench design

must demonstrate that flows discharging from the soakaway/infiltration trench will not result in an increased risk of flooding to property and land downstream of the proposed development. Within the flood risk assessment there is the following statement “A study would be required to identify whether water infiltrating at the site would emerge from the ground at lower levels and/or otherwise effect lower lying development or infiltration.” No details of this study have been provided.

Response dated 13/2/24 following the submission of additional information:

No objection -

1. The developer has carried out infiltration testing at the location and invert level of the proposed soakaways. These infiltration tests have been carried out in accordance with BRE365.
2. The developer has submitted a drawing showing the proposed surface water drainage for the development. The surface water drainage will discharge to a soakaway located on their site.
3. The developer has submitted hydraulic calculations to show that the surface water drainage and the soakaway has been designed to cater for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep.

Providing the surface water drainage is constructed in accordance with the submitted drawings and hydraulic design I have no objections on drainage grounds to planning permission being granted.

Drainage Engineer (foul drainage):

No objection –

1. The developer has identified within Form FDA 1A that foul drainage will discharge to a package treatment plant with the treated effluent then being discharged to a drainage field.
2. There is no drawing showing where the package treatment plant or drainage field are to be located on the site. This is required to be submitted.
3. The infiltration testing that has been carried out is the testing that was undertaken for the surface water drainage soakaway. Foul effluent from the package treatment plant must not discharge to this soakaway.
4. The developer must carry out infiltration testing at the location of the proposed drainage field as identified in guidance note 6 of Form FDA 1A (a minimum of

two trial holes with three tests in each trial hole). The results of this infiltration testing can then be used to design the drainage field.

Details of the infiltration testing, package treatment plant and drainage field design must be submitted.

DCC Ecology:

No objection -
Ok subject to conditions.

Torquay Neighbourhood Forum:

Objection -

The Forum notes that this new Application attempts to overcome objections raised for P/2023/0170. We are pleased that an extra parking space has been provided for visitors and also note that some attenuation has now been provided for rainwater run-off, however, we believe that further consideration needs to be given to both rainwater run-off and foul drainage.

The proposed development will affect a Flood Risk Zone 3 Area. The Breccia therein can become saturated, thus limiting the capacity for infiltration drainage. Detailed permeability tests will need to be undertaken, including during prolonged wet weather conditions, to verify the drainage capacity. In addition exceedance flow from the attenuation tank must not result in risk of flooding in lower properties but the proposed design indicates that such a risk is not eliminated.

The Forum has noted a number of comments relating to the design. The proposed design is unique compared with other buildings within the combe, and will impact the appearance of the Conservation Area and the surrounding dwellings. It is in danger of setting a precedent for Maidencombe to be overrun by the trend from elsewhere in Torquay of buildings that look like shipping containers. The Torbay Heritage Trust, who have expertise in architecture and conservation, expressed concerns, and comments from neighbours in Brim Hill indicate that the proposed box-like design does not meet the spirit of Neighbourhood Plan Policy TH12. The Forum would prefer to see a more traditional design in keeping with the other buildings in the combe.

The Forum in principle supports replacement of Mouse Cottage, but this proposal continues to be out of keeping with the area. Consequently, the Forum cannot support this Application.

Principal Historic Environment Officer:

No objection -

The proposed development is considered to have a neutral impact on the significance of the identified designated heritage assets. The existing building is not considered to

have any architectural or historic value and therefore its demolition would have no demonstrable heritage impact. Although, the proposed design approach would be a move away from the traditional, vernacular style commonly found within the conservation area, the replacement dwelling through its simplified form and detailing, proposed landscaping and use of natural materials would result in a form of built development which would more successfully integrate itself into the existing landscape than that previously refused. The proposed development is therefore considered to preserve the rural setting of both the Maidencombe Conservation Area and the Courthouse as a Grade II listed building.

Conclusions:

As a result of the above, it is clear that the proposed development would have a neutral impact on the significance of the identified heritage assets and would preserve the character and appearance of the Maidencombe Conservation Area.

Should the application be approved it is suggested that the following details be secured through condition:

- hard and soft landscaping
- additional roof paraphernalia restriction
- joinery details
- samples of external walling materials (including any boundary treatments)
- specification of proposed roofing materials

Summary Of Representations

6 letters of objection received (3 of which are from a single contact; Torbay Heritage Trust). Issues raised:

- Design and visual appearance
- Special characteristic of the village
- Heritage
- Proposal is not modest
- Scale and massing
- Contrary to policies
- Footprint
- Not in-keeping
- Parking
- Drainage
- Privacy of adjacent properties
- Overly dominant
- Impact on Conservation Area
- Materials

Relevant Planning History

P/2023/0170 Demolition of existing dwelling and formation of replacement contemporary two-storey dwelling. Alterations to parking areas, landscaping including

decking, swimming pool and associated works. Refused 27/04/2023 Appeal dismissed.

Planning Officer Assessment

Key Issues / Material Considerations

1. Principle of Development
2. Visual Impact and Heritage
3. Impact on Residential Amenity
4. Ecology
5. Trees and Landscaping
6. Highways, Movement and Parking
7. Flood Risk and Drainage
8. Low Carbon / Climate Change

1. Principle of development

The proposal is to demolish the existing detached bungalow and construct a replacement dwelling.

The site is designated as countryside located within the Maidencombe and Watcombe Countryside Area under Policy C1 of the Torbay Local Plan. Policy C1 states that “development outside the main urban areas and Strategic Delivery Areas will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies, including those relating to landscape, recreation, biodiversity, design and conservation.” The site is located within the Maidencombe village envelope and there are no Development Plan policies indicating that the proposal is not acceptable in principle. It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

2. Visual Impact and Heritage

Paragraph 203 of the National Planning Policy Framework (NPPF) states that in determining applications, local planning authorities should take account of: (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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 C1 of the Local Plan states that development outside the main urban areas and Strategic Delivery Areas will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies, including those relating to landscape, recreation, biodiversity, design and conservation. 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 TH8 of the Neighbourhood Plan requires the 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 within the Maidencombe to Daddyhole Undeveloped Coast which is designated under Policy C2 of the Local Plan. Policy C2 states the Council and partnership organisations will conserve the character of the undeveloped coast and seek to enhance its distinctive landscape, seascape, biodiversity, geological, recreational and cultural value. Development will not be permitted in the undeveloped coastal area unless proposals satisfy the following requirements:

1. Maintain the unspoilt character of the coastline, coastal landscape and seascape;
2. Maintain or improve public access for recreation; and
3. Provide sensitively designed development, including tourism uses, where there are clear economic or sustainability benefits that cannot be realised in alternative locations.

The site falls within the Maidencombe Village Envelope. Policy TH12 of the Torquay Neighbourhood Plan states that any proposal for development within Maidencombe Village Envelope must demonstrate that it respects local character and it conserves or enhances heritage and landscape assets where it might impact on those assets. To achieve this, any development must be of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes. Designs and construction materials must draw from and be in keeping with local features and design characteristics and be appropriate in relation to its landscape sensitivity. Development must take into account the value of the rural landscape and comply with the Local Plan policies in the designated Countryside Area (C1) and Undeveloped Coast (C2).

The predominant character of the dwellings within the Maidencombe village envelope is that of large detached dwellings primarily of traditional materials featuring pitched slate and tiled roofs. There is a variety of materials present including render, brick and

cladding. Within the wider Maidencombe area more modern development is present, including modern flat roof dwellings.

At present the existing dwelling sits quietly within its surroundings allowing the landscape to dominate the character of the area. Policy TH12 of the Torquay Neighbourhood Plan is a key consideration, notably that development must be of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope and that designs and construction materials must draw from and be in keeping with local features and design characteristics and be appropriate in relation to its landscape sensitivity. The policy is not explicit in what design approach would be acceptable but requires that it draws from and is in keeping with local features and design characteristics. It is considered that there is scope for innovative and modern design, providing it utilises high quality materials and sits quietly within the landscape, rather than dominates it.

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. Similarly, Section 66 of the 1990 Act sets out the general duty as respects listed buildings, which requires Local Authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy SS10 of the Torbay Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas.

The site is directly adjacent to the Maidencombe Conservation Area and therefore consideration on the impact of the proposal on its setting is required. Similarly, the application site is within the setting of the Grade II listed 'Court House' which is sited approximately 80m to the north east (between boundaries) and Policy HE1 of the Local Plan requires that development proposals should have special regard to the desirability of preserving any listed building and its setting.

The Maidencombe Conservation Area Character Appraisal (2005), highlights that the special qualities of the Conservation Area derive from the grouped historic buildings from the same era which still retain their traditional forms, thatched roofs and close-knit clustered siting relative to one another. In contrast to these, there are grand villas of later origins that sit higher up on the slopes. But it is the combination of these varied building types within their verdant and topographically challenging landscape which has been influenced by agriculture and proximity to the coast that all contribute to the significance of the Conservation Area. The 20th century infill housing, including the application site dwelling, are considered to make a largely neutral contribution to the setting of the Conservation Area. The rear of the existing dwelling is visible from Rock House Lane in the vicinity of the listed Court House, and it is from here that the dwelling is present in views from and facing towards the Conservation Area. This area is

popular with walkers given the existence of the footpath and recreational spaces, leading to the beach, hence being sensitive to change.

This application follows on from refused application P/2023/0170 which was dismissed at appeal. This application sought to demolish the existing dwelling and construct a contemporary replacement dwelling. One of the reasons for refusal was as follows:

The replacement dwelling would have an overly dominant scale, footprint and massing and as a result would fail to appear in-keeping with the surrounding built environment and landscape setting, instead appearing as a stark addition to the detriment of the character and appearance of the area. The proposal would fail to conserve or enhance the character and quality of the adjacent Maidencombe Conservation Area resulting in less than substantial harm to the Conservation Area which is not considered to be outweighed by sufficient public benefit. The proposal is therefore considered to be contrary to Policies C1, C2, DE1 and SS10 of the Torbay Local Plan, Policy TH8 and TH12 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

The Inspector's appeal decision noted:

Although the proposed property would be of a similar height to the ridge of the existing bungalow, it would incorporate a flat roof, large chimney element and a timber screened external terraced on built up ground. These design features would significantly increase the overall bulk and massing of built form when compared with the existing bungalow. Furthermore, the narrow plot would be largely consumed by the increased footprint of the development, which would harmfully reduce the spacious gap between properties.

The proposed materials including a green roof, timber and stone would go some way towards softening the appearance of the property. However, although there are other nearby properties positioned close to the lane, the aforementioned design features would generate an uncomfortable, untypical and imposing presence when viewed from this lane.

Whilst it is recognised that well designed places do not need to copy their surroundings, the proposed rear elevation would include large proportions of glazing across an uncharacteristically wide block of built form. This elevation would not appear lightweight in its design and would have an outlook directly over a small field within the CA. As such, regardless of other intrusive or prominent nearby buildings, the proposal would not appear recessive, but rather, incongruous against this characterful, verdant foreground and tree lined backdrop. The setting of the CA would consequently be harmed.

Overall, the appeal decision highlighted the need for the proposed development to assimilate into the landscape and to appear less striking and dominant. The current application has made a number of amendments to the proposed scheme including the

removal of the bulky chimney design and raised side terrace. The rear elevation has been altered to reduce the extent of the glazing at first floor level by increasing the solid to void ratio. These changes have consolidated the massing and simplified the built form, significantly reducing the overall width of the proposed development.

The replacement dwelling detailed within this application is modern in design featuring a flat roof design and is set over two floors. Materials include local drystone stone walling, grey treated timber cladding and timber frame glazing. The accommodation of the dwelling is located within a central rectangular form. The two existing parking areas are retained and improved with the north west parking area enlarged and the pedestrian steps leading to the existing dwelling removed, whilst the south west parking area features improvements with a new bin store and stepped access to the ground floor of the dwelling. The rear garden features new terracing, a swimming pool and retaining wall structures.

Objectors have raised concerns with the design and visual appearance noting that the proposal would not be in keeping with the local area, the dominance of the proposal and that the development is not modest. Concerns are also raised with the scale, massing and footprint, the use of materials and the impact on the special characteristics of the village. The impact on the Conservation Area and heritage assets are also raised as concerns.

The proposal positions the replacement dwelling closer to the road thereby increasing the dominance of the replacement dwelling. There is no in principle concern with the visual impact of the siting in terms of the proximity to the road. Concerns were raised with the previous application that the set forward siting in combination with the width of the replacement dwelling, which included a wrap around terrace would be highly visible from the streetscene and would significantly increase the width and massing of the dwelling resulting in development spanning the majority of the width of the plot. The current proposal has simplified the design, resulting in a width similar to the width of the existing dwelling. One of the positive features of the area is the spaciousness of the streetscene with clear gaps between dwellings, and the ability in this location to see through the site to the landscape and sea beyond, including the Conservation Area. Generally larger dwellings in this location are set further back within their plots to reduce their dominance, and dwellings of smaller proportions are set closer to the road. The set forward siting in this instance is considered to be acceptable given the proposed width of the dwelling which retains gaps to both side elevations in combination with its simple form and visual appearance. The width and massing presented is considered to be acceptable and would retain the spacious characteristic within the streetscene thereby appearing of a suitable scale with the surroundings and retaining the landscape character of the area.

In terms of the general design, the replacement dwelling does not exceed the overall height of the existing dwelling. Whilst the flat roof design will increase the overall massing this is considered to be an acceptable increase in terms of the overall visual impact.

The rear of the dwelling is visible from Rock House Lane which is located within the Maidencombe Conservation Area. The appeal decision of the refused application raised concerns with the large proportions of glazing across the uncharacteristically wide block of built form. The built form and massing has been reduced in this application submission with the removal of the side terrace which featured rear glazing. The glazing at ground floor level is likely to have limited visibility from the Conservation Area given its siting, the topography, landscaping and available viewing points from public vantage points. The first floor of the dwelling is considered to be readily visible and at this level the extent of glazing has been reduced and the side terrace with glazed balustrading has been omitted. This has simplified the design and overall the appearance is not considered to appear incongruous against the characterful, verdant foreground and tree lined backdrop within the context of the countryside and undeveloped coast. It is therefore considered that the overall scale, footprint and massing would appear appropriately in-keeping with the surrounding built environment and landscape setting, and will maintain the unspoilt character of the coastline, coastal landscape and seascape via the sensitively designed development.

The Court House was originally listed as grade II in 1975 and dates from the late 16th century, however, it has been extended and altered in the 20th century. Its significance relates predominantly to its evidential value through the survival of its 16th century fabric, historic value through the physical evidence of past inhabitants of the site from the 16th century onwards, and its aesthetic value due to the contribution it makes to the historic landscape of the area. In addition, the building is also listed for its group value which indicates that its external relationship with other assets as part of an historic grouping makes an important contribution to its significance. It is considered that with regards to the Court House's setting, the asset is predominantly experienced privately within its own curtilage, and publicly from Rock House Lane and the Maidencombe Community Orchard. The wider setting of the asset is characterised by the rurality of the area with large green open spaces, sporadic isolated development linked by rural lanes and views of the sea. The existing 20th century development along Brim Hill would be considered to form part of the overall setting of the listed building and would presently have a neutral impact upon it. There is some intervisibility between the listed building and site, however, this only comprises a minor element of its overall setting. As a result, it can be concluded that the setting of the Court House does make a demonstrable impact to its significance.

The Council's Principal Historic Environment Officer considers the demolition of the existing dwelling to have a neutral impact on the Maidencombe Conservation Area and the listed Court House given the existing building is not considered to have any architectural or historic value. Similarly, the construction of the replacement dwelling detailed is considered to have a neutral impact on the Maidencombe Conservation Area and the listed Court House. The Officer notes that although the proposed design approach would be a move away from the traditional, vernacular style commonly found within the Village Envelope and the Conservation Area, the replacement dwelling through its simplified form and detailing, proposed landscaping and use of natural

materials would result in a form of built development which would successfully integrate itself into the existing landscape unlike that previously refused. The proposed development is therefore considered to preserve the rural setting of both the Maidencombe Conservation Area and the Court House as a Grade II listed building resulting in a neutral impact. The Officer recommends a number of conditions to ensure a good quality form of development in addition to a condition restricting additional roof paraphernalia.

Given the prominence of the development within the streetscene and the Conservation Area, and as the simplistic form of development details results in a form of development, which although modern, can assimilate into its surroundings quietly, the addition of a condition removing permitted development rights for additional works, including extensions and alterations and additions to the roof is recommended to ensure this simplistic form is retained.

The revised proposal is considered to have overcome the previous reason for refusal and is considered to accord to Policies C1, C2, DE1 and SS10 of the Local Plan, Policy TH8 and TH12 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 provide a good level of amenity for future residents and will be assessed in terms of the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution, provision of useable amenity space, and an adequate internal living space. Policy TH12 of the Neighbourhood Plan requires new development to protect the amenity of existing homes.

Quality of living accommodation for future occupiers:

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. Internal floor standards are set out from the DCLG technical housing standards document and echoed in Table 23 of the Torbay Local Plan 2012-2030. This states that a four bedroom 8 person dwelling set over two floors should have a minimum internal floor area of 124m².

Policy THW4 of the Neighbourhood Plan states that all new houses shall have not less than 20 sqm of outside space (excluding space for cars or parking) and must have garden areas with not less than 10 sqm of space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. The Neighbourhood Plan provides the primary guidance on outdoor amenity space where there is divergence with policy guidance within the Local Plan.

The replacement dwelling exceeds the recommended minimum internal floor area and therefore complies with the Government's Nationally Described Space Standards. The

replacement dwelling is considered to provide an adequate and suitable environment for future occupiers in terms of outlook and natural light levels. The replacement dwelling will feature an external amenity area which exceed 20m² in line with the Neighbourhood Plan policy requirement.

Adjacent neighbouring amenity:

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers.

Objectors have raised concerns with the impact of the proposal on the privacy of adjacent properties.

In terms of the impact of the proposal on adjacent neighbours, Home Orchard is sited to the south east. It is acknowledged that given the two storey nature of the replacement dwelling, that glazing and openings will be present at a higher level than the existing rear openings and raised terrace area. Home Orchard is set at a significantly lower level than the application site and at present the shared side boundary features vegetation at varying heights. From the existing garden and raised terrace of the application site, the roof of Home Orchard is visible. The north facing roof of Home Orchard features a rooflight within the central hipped section of the building and there are opening at ground floor level with a retaining wall. Given the siting of the replacement dwelling, any views achievable from the rear of the dwelling will be at an angle and not direct. Whilst the replacement dwelling will be at a higher level, this height difference means that any views achieved of Home Orchard will be at a higher level therefore not resulting in direct views or any subsequent loss of privacy to openings on the side elevation. Given the separation distance of the rear of Home Orchard, including their garden and swimming pool area, and the indirect views which could be achieved over the roof of this property towards the front of the dwelling from the rear of the replacement dwelling, the proposal is not considered to result in an unacceptable level of overlooking or reduced privacy to this dwelling. Openings are proposed on the southern first floor elevation of the replacement dwelling, however these will face towards a small section of Home Orchard's front garden which is likely to receive little use given the extent of their rear garden thereby resulting in an acceptable relationship. The proposal includes retaining walls across the southern width of the plot and a dwarf wall flood barrier. Given the height of these features in combination with the distance to Home Orchard and this property's primary orientation, these features are not considered to result in a negative impact on neighbouring amenity. Overall the impact on Home Orchard is considered to be acceptable.

The proposal is considered to have an acceptable impact on the amenity of Maidensea House given the lower land levels and boundary screening.

A planning condition is recommended in line with the comments from the Council's Senior Environmental Health Officer which requires the submission of a construction and demolition management plan. Given the narrow width of Brim Hill with restricted

parking opportunities, in combination with the proximity of the site to neighbouring dwellings, this information is required prior to commencement to secure suitable parameters for the construction phase.

The proposal is therefore considered to result in an acceptable impact on the amenity of neighbouring properties and the proposal is considered to accord with Policy DE3 of the Local Plan, Policy TH12 of the Neighbourhood Plan and the guidance contained within the NPPF.

4. Ecology

Policy NC1 of the Torbay Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE6 of the Torquay Neighbourhood Plan states that considering all stages of the construction process, all development within the Edginswell Future Growth Area or the Maidencombe area must have a Habitats Regulations Assessment as appropriate and be compatible with ecological requirements set out in the Habitats Regulations.

The site is located adjacent to a local nature reserve – Maidencombe and Lower Gabwell Fields and the site lies within the South Hams SAC Landscape Connectivity Zone for greater horseshoe bats.

A bat and bird assessment has been submitted in support of the application. The report confirmed that there was no evidence of nesting birds and no evidence of bat use. There were no features suitable for roosting bats. The site was assessed as having negligible suitability to support roosting bats. It was recommended that if vegetation is removed (notably there is a row of hazel planting in the middle of the garden) it should be timed to avoid the bird nesting season (1st May – 31st August) unless a competent ecologist has carried out a nesting bird check in the 24 hours prior to habitat clearance. No further survey work is required.

The DCC Ecologist has confirmed that the proposal is acceptable from an ecological standpoint subject to the imposition of conditions. A condition requiring the adherence to the ecological enhancement set out within the bat and bird assessment is recommended alongside a condition relating to the timing of vegetation clearance works and enabling/demolition works of the building to ensure an acceptable impact on nesting birds. External lighting details have been provided which are considered acceptable and will be secured by condition.

With the addition of the recommended conditions the proposal would accord with Local Plan Policy NC1 and Policy TE6 of the Torquay Neighbourhood Plan.

5. Trees and Landscaping

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees or veteran trees,

hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role. The site is covered by an Area Tree Preservation Order.

The proposal is supported by an arboricultural impact assessment and associated tree protection plan.

The Council's Senior Tree Officer has confirmed that the existing building has an acceptable spatial relationship to the surrounding trees, and the proposed layout does not infringe or impact on existing trees. The proposed layout is not affected or likely to be compromised by daylight shading due to its orientation to existing trees. The application is supported by an arboricultural appraisal of the trees, tree constraints and project objectives. The application is supported by a Tree Protection Plan Ref: TPP-MOU-22 which makes provision for the retention and protection of existing trees. Section 8.3 of the report clearly stipulates the installation of Construction Exclusion Zone fence prior to the commencement of the development. Section 10 of the report provides the specification for the fence (Fig 2 BS5837). The Officer recommends that if planning permission is granted, a planning condition must be applied to secure the recommendations of the Dart tree report and Tree Protection Plan. The tree protective fencing must be fixed into the approved positions and maintained for the duration of the development.

With the addition of the recommended condition the proposal is considered to be in accordance with Policy C4 of the Local Plan.

6. Highways, Movement and Parking

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 of the Local Plan states that the Council seeks to improve road safety, quality of life and equality of access for all, minimising conflict between road users and prioritising the transport hierarchy. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. 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 or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

Appendix F of the Torbay Local Plan states that 2 car parking spaces should be provided for a dwelling. Appendix F states that parking spaces should be 4.8 metres by 2.4 metres except for when they abut the public footpath and/or public highway and then the spaces should be 5.5 metres by 3.2 metres to prevent vehicles from overhanging and causing an obstruction to the public footway and potentially the public highway. The Highways Standing advice notes in section 2 that dual parking spaces will also require 5.5m length by 5.6m width (if no obstruction from adjacent walls).

The Highway Officer has been consulted and has raised no in principle objections, instead referring the application to the standing advice. The proposal will alter the existing parking spaces serving the dwelling resulting in the north western parking area providing full space for two cars. The south west parking area will be retained and steps will be added to the side. This parking space is substandard in width at approximately 2.95m when it should be 3.2m wide however given this is an existing parking space and two full size parking spaces are provided in the north west parking area, this does not raise a concern. This proposal will provide two full size parking spaces which accords with the requirements of TA3 and TH9 and the highways standing advice. Given the parking areas are existing, the access and visibility is considered to be acceptable and will not result in a detriment to the existing circumstances.

Appendix F requires one electric charging point to be provided per dwelling. Appendix F also requires space for two cycles per house. The floor plans indicate that two electric vehicle charging points will be installed and a bike store will be provided at ground floor level. This is considered acceptable and can be secured by planning conditions.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The Waste Officer has confirmed they have no objection to the development. Bin storage has been detailed within the south west parking area and this is considered acceptable and will be secured by a condition.

The proposed development is considered to comply with Policies TA1, TA2, TA3 and W1 of the Local Plan and TH9 of the Neighbourhood Plan.

7. Flood Risk and Drainage

Policy ER1 of the Torbay 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, whilst Policy ER2 of the Local Plan details how water management should be dealt with. The site is partly located within Flood Zone 3 as shown on the Environment Agency's flood map for planning.

Objectors have raised concerns with the proposed drainage and flood risk associated with the proposed development.

As a small part of the site is within flood zone 3, an exception test is required. To pass the exception test, paragraph 170 of the NPPF says that it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Paragraph 171 of the NPPF confirms that both elements of the exception test should be satisfied for development to be permitted.

The Council's Drainage Engineer confirmed that the developer has submitted details of the proposed surface water drainage system for the new development. This incorporates attenuation which discharges at a controlled rate to a soakaway which has an overflow to an infiltration trench. The Drainage Engineer's initial comments were that no infiltration testing has been carried in accordance with BRE 365. The only infiltration testing undertaken was within two boreholes. The Drainage Engineer stated that infiltration testing must be carried out in accordance with BRE 365 at the proposed location and invert level of the soakaway and the infiltration trench. The results of this infiltration testing must be used within the design of the surface water drainage. These along with further detailed comments were raised by the Officer who confirmed they needed to be addressed as part of the application process.

Following receipt of these comments the agent has provided further details on the intended means of drainage. The Council's Drainage Engineer subsequently confirmed that the developer has carried out infiltration testing at the location and invert level of the proposed soakaways. These infiltration tests have been carried out in accordance with BRE365. The developer has submitted a drawing showing the proposed surface water drainage for the development. The surface water drainage will discharge to a soakaway located on their site. The developer has submitted hydraulic calculations to show that the surface water drainage and the soakaway has been designed to cater for the critical 1 in 100 year storm event plus 50% for climate change and 10% for urban creep. Providing the surface water drainage is constructed in accordance with the submitted drawings and hydraulic design there is no objection on drainage grounds to planning permission being granted.

The replacement dwelling will be located in a part of the site with a lower risk of flooding and it has been demonstrated to be safe for its lifetime without increasing flood risk elsewhere. The sustainability of the replacement dwelling is considered in detail within the low carbon/climate change section of the report but is concluded to comply with Policies SS14 and ES1 in respect of low carbon development and adaptation to climate change. The proposal is therefore considered to pass the exception test.

It has therefore been demonstrated that there is no risk of flooding to the dwelling on the site or any increased risk of flooding to properties and land adjacent to the site for

the critical 1 in 100 year storm event plus 50% for climate change and 10% increase in impermeable area for urban creep and the exception test has been passed. A condition is recommended to require the installation of the drainage system detailed and with the addition of this condition the proposal is in accordance with Policies ER1 and ER2 of the Local Plan in respect of flood risk and surface water drainage.

A foul drainage assessment form and a foul drainage statement have been submitted which identifies that foul drainage will discharge to a package treatment plant with the treated effluent then being discharged to a drainage field. The Council's Drainage Engineer has confirmed that no drawing has been submitted showing where the package treatment plant or drainage field are to be located on the site. The infiltration testing that has been carried out is the testing that was undertaken for the surface water drainage soakaway. Foul effluent from the package treatment plant must not discharge to this soakaway and the developer must carry out infiltration testing at the location of the proposed drainage field as identified in guidance note 6 of Form FDA 1A (a minimum of two trial holes with three tests in each trial hole). The results of this infiltration testing can then be used to design the drainage field. Details of the infiltration testing, package treatment plant and drainage field design must be submitted.

Lack of foul drainage details was not a reason for refusal of application P/2023/0170 and was not added as a reason for refusal by the planning inspector on the dismissed appeal. In this instance, given the previous application, which included a larger replacement dwelling, did not require the foul drainage information upfront, it would be considered unreasonable to require this information upfront as part of this application. The application site's garden is generous and it has already been demonstrated that an acceptable surface water drainage system can be accommodated on the site, and it is reasonable to conclude that foul drainage could also be accommodated. A planning condition requiring details of the foul drainage system is therefore recommended to ensure an adequate form of foul drainage is installed. With the addition of the recommended condition the proposal is considered to accord with Policy ER2 of the Local Plan.

8. Low Carbon / Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks to minimise carbon emissions and the use of natural resources. Policy ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The design and Access Statement notes:

Good design is a key aspect of sustainable development and a new build solution will allow for the dwelling to be built to the best standards of today, maximising natural light and creating an energy efficient building which balances sustainability without compromising on practicality.

Due consideration will be given to minimising energy consumption as part of our design proposals. This will be achieved through good design, material specification and a range of renewable energy technologies.

We will use a passive approach as far as is possible. This will be based on the hierarchy of Be Lean, Be Clean, Be Green.

'Be Lean' means that we will use less energy. We will adopt a fabric first approach, ensuring very high levels of insulation, and an airtight fabric. The orientation of the building will facilitate passive solar gains on the south-west facade in the autumn, winter and spring, whereas deep overhanging eaves provide protective shading from the summer sun to control overheating.

'Be Clean' means that we will supply energy efficiently. This means for example that we will use mechanical ventilation with heat recovery, and the residual heating need will be supplied by an air source heat pump through efficient underfloor heating.

'Be Green' means that the residual energy demands will be sourced from renewable sources. As such we will adopt photovoltaic on the roof to offset the consumption of the heat pump.

Additionally, a green roof is proposed which contributes to rainwater attenuation, helping to slow any water from the roof and thereby reducing pressure on the removal of surface water from the site. Green roofs also help increase biodiversity and thermal mass. A green roof will help the building sit comfortably and discreetly in the vicinity of the Maidencombe Conservation Area, and contribute towards a nicer outlook from the road level of Brim Hill. In summer time, green roofs also help in avoiding overheating, as evaporation helps reduce the temperature of the roof.

The sustainability measures outlined above are considered reasonable and a condition to secure the measures outlined within the Design and Access Statement including the solar panels detailed on the roof plan is recommended to ensure compliance with Policy. With the addition of this condition the development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

Sustainability

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

The Economic Role

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

development. The development would see the re-development of an existing dwelling to provide a larger dwelling.

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

The Social Role

The principle social benefit of the proposed development would be the provision of a replacement dwelling which provides a good quality form of accommodation.

The use of the site for a replacement dwelling would provide an appropriate use and the site is within a sustainable location. On balance, the social impacts of the development weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered especially relevant to the proposed development are impacts on the built environment, heritage, making effective use of the land, ecology, arboriculture, flood risk and drainage. These matters have been considered in detail above.

The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through the landscaping condition. The proposal will include bicycle storage and an EV charging point and sustainable drainage will be required by condition.

It is concluded that the environmental impacts of the development weigh positively within the planning balance.

Sustainability Conclusion

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

Statement on Human Rights and Equalities Issues

Human Rights Act: The development has been assessed against the provisions of the 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

Affordable Housing:

Not applicable.

S106:

Not Applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

Not applicable.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the Development Plan policy supports the principle of the development. Whilst the design presented is modern in appearance, it is considered to be of a scale, height, footprint, location and massing which is inkeeping with its built surroundings and the overall physical characteristics within the Village Envelope whilst being sensitively designed to the landscape setting. The report gives consideration to the objections raised and concludes that these issues are not of weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

Conclusions and Reasons for Decision

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area, heritage assets or neighbouring living conditions; would provide acceptable arrangements in relation to highway safety, flood risk and drainage, trees and ecological constraints. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Approval: Subject to;

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

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

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.

Conditions

1. Construction/Demolition Management Plan

No development, including demolition, shall take place until a Construction/Demolition Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should include, but not be limited to:

- (a) the parking of vehicles of site operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials used in constructing the development
- (d) the erection and maintenance of security hoarding, where appropriate
- (e) wheel and/or highway washing facilities
- (f) measures to control the emission of dust and dirt during construction
- (g) measures to minimise noise nuisance to neighbours from plant and machinery.
- (h) construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

The approved Construction/Demolition Management Plan shall be adhered to throughout the construction period.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users in accordance with Policy DE3 of the Torbay Local Plan. These details are required prior to commencement of development to secure suitable parameters for the construction phase.

2. EV Charging Point

Prior to the occupation of the replacement dwelling hereby approved, a scheme for the insertion of one electrical vehicle charging point to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The approved electrical vehicle charging point shall be thereafter available for use, maintained and retained for the lifetime of the development for the associated dwelling.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan.

3. Landscaping Scheme

Prior to the first occupation of the replacement dwelling hereby approved, a landscaping scheme which shall include full details of the hard and soft landscape works, including an implementation and management plan which incorporates the recommendations of the 'Bat and Bird Assessment', shall be submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

The hard landscape works shall include details of the means of enclosure, walls, boundary and surface treatments and vehicle and pedestrian/cyclist circulation.

All planting, seeding, turfing or hard surfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the first occupation of the replacement dwelling hereby approved or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

The approved landscaping scheme shall be carried out in its entirety and shall accord with the approved details and timetable.

Reason: In the interests of visual amenity and biodiversity in accordance with Policy DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030.

4. Foul Drainage

Prior to the first occupation of the replacement dwelling hereby approved, a scheme for the disposal of foul drainage which shall include details of infiltration testing, package treatment plant design and drainage field design shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter

be undertaken in accordance with the approved details, which shall be installed prior to the first occupation of the development hereby approved and shall thereafter be retained for the life of the development.

Reason: In the interest of securing appropriate foul drainage disposal in accordance with Policy ER2 of the Adopted Torbay Local Plan 2012-2030.

5. Materials Details

Prior to their installation, technical details and/or samples of the proposed exterior materials including wall finishes (including details of the drystone stone walling), roofing materials, eaves, fascias and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policies DE1, SS10 and C1 of the Torbay Local Plan and Policies TH8 and TH12 of the Torquay Neighbourhood Plan.

6. Joinery Details

Prior to the installation of any external joinery, full details of that joinery shall be 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: In the interests of the appearance of the development, the surrounding area and adjacent Conservation Area in accordance with Policies DE1 and SS10 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

7. Bike Storage

The replacement dwelling hereby approved shall not be occupied until the bike store area detailed on approved plan reference '2201/200' has been provided. Once provided, the bike store area shall be retained for use of the occupants of the dwelling for the life of the development.

Reason: To ensure adequate bicycle storage facilities are provided to serve the development in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and in the interests of sustainability.

8. Bin Storage

The replacement dwelling hereby approved shall not be occupied until the bin storage area detailed on approved plans reference '2201/201' has been provided. Once provided, the bin storage area shall be retained for use of the occupants of the dwelling for the life of the development.

Reason: To ensure adequate waste storage facilities are provided to serve the development in accordance with Policies DE1 and W1 of the Adopted Torbay Local Plan 2012-2030 and in the interests of sustainability.

9. Surface Water Drainage

The replacement dwelling hereby approved shall not be occupied until the approved surface water drainage scheme has been provided and installed in accordance with the approved plan references '3312 F (Flood Risk Statement and Surface Water Management Report)' and 'FRA20127.2D'. Once installed the surface water drainage scheme shall be maintained and retained for the life of the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

10. Parking

The replacement dwelling hereby approved shall not be occupied or brought into use until the hardstanding parking areas detailed on approved plan '2201/201' has been provided in full. The hardstanding shall thereafter be permanently retained for the use of parking by the dwelling.

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

11. Tree Protection

The development shall not be carried out otherwise than in strict accordance with the hereby approved 'Arboricultural Impact Assessment with Constraints Plan and Method Statement AIA-MOU-22' which includes the tree protection plan for the protection of trees both prior to and during construction works.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policies NC1 and C4 of the Adopted Torbay Local Plan 2012-2030.

12. External Lighting

No external lighting, other than that detailed in accordance with approved plan '22-222-700 Rev B' shall be installed on the site.

Reason: To safeguard legally protected species, including safeguarding foraging paths for legally protected bats, and in the interests of biodiversity and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

13. Bird Nesting Season

No removal of hedgerows, trees or shrubs or demolition works shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey

shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared/demolition takes place and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

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

14. Adherence to Ecology Report

The recommendations and mitigation given in the 'Bat and Bird Assessment' by Orbis Ecology dated 4 August 2023 shall be followed, including precautions to prevent threat of harm during construction works and timings of works.

Reason: To safeguard protected and/or priority species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

15. Sustainability Measures

The construction of the replacement dwelling hereby approved shall be carried out in accordance with the details contained in the sustainability section of the 'Design and Access Statement' dated July 2023. All measures to limit carbon emissions shall be implemented prior to first occupation of the replacement dwelling including the installation of solar panels as detailed on approved plan reference '2201/202'.

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

16. Removal of permitted development rights

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:

- (a) Part 1, Class A (Extensions and alterations)
- (b) Part 1, Class AA (Enlargement of a dwellinghouse by construction of additional storeys)
- (c) Part 1, Class B (Additions to the roof)
- (d) Part 1, Class D (Porches)
- (e) Part 1, Class E (Buildings incidental to the dwellinghouse)
- (f) Part 1, Class F (Hard surfaces incidental to the enjoyment of a dwellinghouse)
- (g) Part 2, Class A (Gates, fences, walls etc)

Reason: In interests of visual and local amenity given the sensitive location of the site and the potential for these works to negatively impact on the character and

appearance of the development and adjacent Conservation Area, in accordance with Policies DE1, C1, C2 and SS10 of the Torbay Local Plan and Policies TH8 and TH12 of the Torquay Neighbourhood Plan.

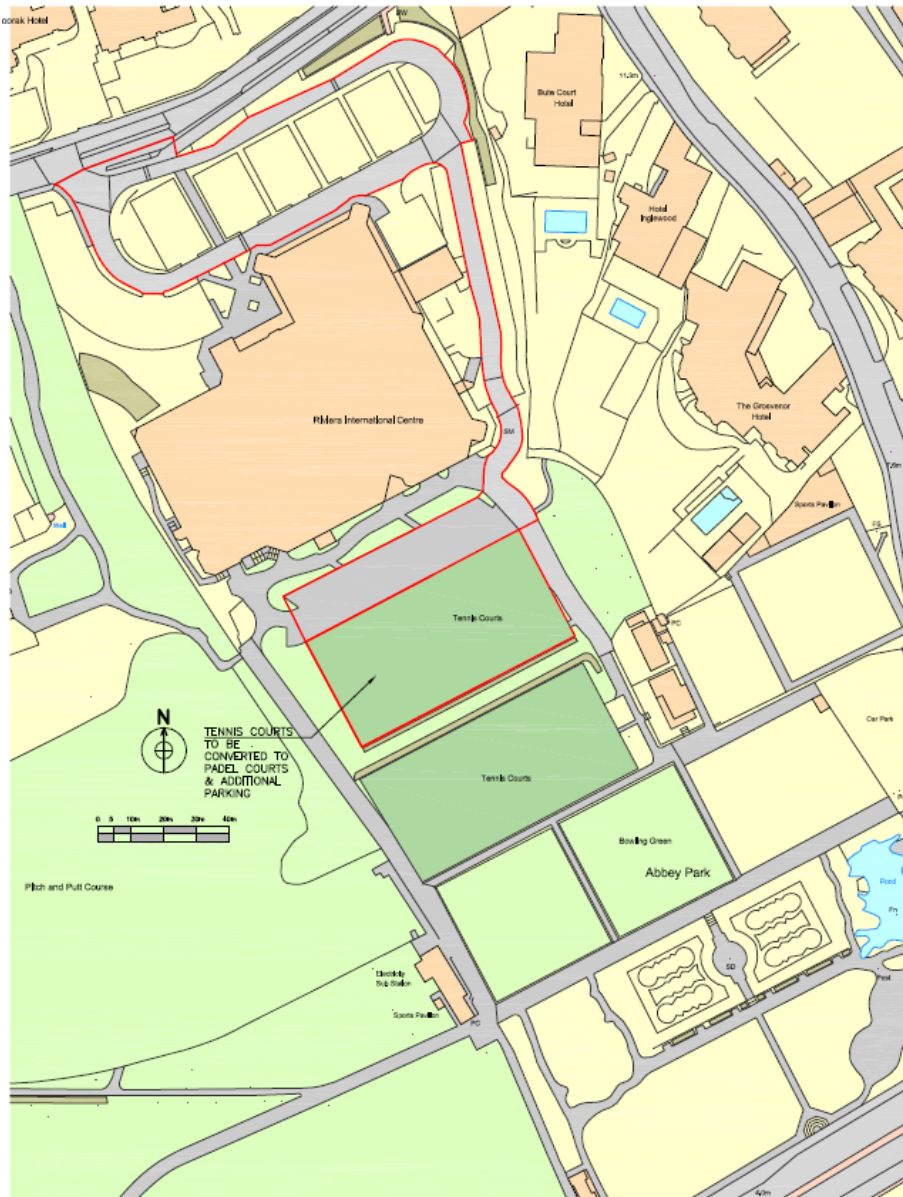
Relevant Policies

DE1 – Design
DE3 – Development Amenity
ER1 – Flood Risk
ER2 – Water Management
NC1 – Biodiversity and Geodiversity
TA1 – Transport and Accessibility
TA2 – Development Access
TA3 – Parking Requirements
W1 – Waste Hierarchy
SS14 – Low Carbon Development and Adaptation to Climate Change
ES1 – Energy
C1 – Countryside and the Rural Economy
C2 – The Coastal Landscape
C4 – Trees, Hedgerows and Natural Landscape Features
SS10 – Conservation and the Historic Environment
HE1 – Listed Buildings
TH8 – Established Architecture
TH12 – Maidencombe Area
THW4 – Outside Space Provision
TE6 – European Protected Species on Specified Sites
TH9 – Parking Facilities

TORBAY COUNCIL

Application Site Address	Riviera International Conference Centre Chestnut Avenue Torquay TQ2 5JU
Proposal	Change from disused tennis courts to four padel courts with additional parking and lighting.
Application Number	P/2023/1044
Applicant	Go Padel - Torquay
Agent	Ridgeway Building Design Ltd
Date Application Valid	12.01.2024
Decision Due date	09.03.2024
Extension of Time Date	To be agreed
Recommendation	<p>Approval subject to:</p> <p>1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections through the consultation exercise, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	June Pagdin

Location Plan –



Site Details

The application site is positioned between the urban structure of the Riviera International Conference Centre (RICC) in Torquay (a leisure and conference centre) and the landscape of Abbey Park.

There are ten tennis courts in total on the southern side of the RICC building beyond the grass-crete parking area. The courts are in two rows of five, each surrounded by metal fencing. The application site comprises the row nearest to the RICC building. The site measures approximately 0.3 Hectares (plus access route through the RICC carpark) and contains five hard-surfaced courts enclosed in a 3m high chain-link

fence. The courts have not been in use for some time: the surface has deteriorated and the area is kept locked.

The second row of courts to the south is on slightly higher land. It has been recently refurbished with floodlighting and is used on a “book and play” basis operated on-line. Beyond, to the south, are the bowls greens and terraced gardens that step down to Torquay Road and the promenade at Torre Abbey Sands.

To the east are the grounds of hotels on Belgrave Road, screened by trees in the RICC grounds and in their own gardens. To the west end of the site is a grassed strip, a public footpath and a line of mature mixed trees that mark the boundary with the grounds of Torre Abbey.

The site is within the built-up area of Torquay, in the Core Tourism Investment Area of Torquay (Harbourside, waterfront and Belgrave Road). It is in Belgravia Conservation Area and is adjacent to the scheduled monument and Grade I listed buildings at Torre Abbey. There is a pitch-and-putt course in the grounds of the abbey.

The site is within an Urban Protected Landscape Area (No 29 Torre Abbey Meadows and Sports Grounds) in the Local Plan and is designated a Local Green Space (TLGST4) in the Torquay Neighbourhood Plan. It is also covered by an Area Tree Preservation Order and lies within Flood Zone 1, within the Critical Drainage Area.

Description of Development

Full planning permission is sought to change the use of the site from five tennis courts to four padel courts with parking. Padel tennis is a fairly new tennis-like sport. Games are played by four players in an enclosed court and generally run for 90 minutes. The courts are smaller than tennis courts.

The proposal is as follows:

- Four courts on three of the unused tennis courts (43m x 36.5m) at the east end of site
- Each court measures 20m x 10m in area, the tennis court surface would be repaired as necessary and covered in artificial Turf flooring - in green RAL 6009
- Height of surrounds: 4m high clear panels at each end of court with partial roof and 3m high steel mesh fencing at sides (powder coated green) ...
- No buildings/stores
- Pedestrian access to remain paths in Abbey Park
- Provision of 22 temporary Pay & Display car parking spaces (4 mobility spaces) on area of 2 courts at west end of site
- Provision of 8 cycle parking spaces
- Opening hours all year Monday to Friday 6.30am to 9pm, Saturday, Sunday and Bank Holidays 8.30am to 6pm.
- Plans indicate removal of a few (2-5) grass-crete car parking spaces to gain access to the additional parking area.

Proposals for floodlighting were included in the original application but have been removed pending further assessment of impacts on ecology. The applicants have confirmed that they are amenable to submitting details further to planning condition to address this query and to provide landscaping planting to the west of the application site further to a condition.

Pre-Application Enquiry

DE/2023/0102: Change of use from tennis courts to padel courts and additional temporary parking. Split decision 28.09.2023.

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Torquay Neighbourhood Plan ("The Neighbourhood Plan")
- Healthy Torbay Supplementary Planning Document (HTSPD)

Material Considerations

- National Planning Policy Framework (NPPF 2021)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Belgravia Conservation Area Appraisal
- Torbay Heritage Strategy
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

P/1990/0400: Change of Use of Land for Up To 30 Days Per Annum to Allow Operation of Exhibitions/Conferences Inside a Temporary Demountable Structure. Approved 04.05.1990.

P/2021/0458: Use of disused tennis courts as climbing facility with climbing frames and clubhouse structures. Approved 12.01.2022.

Summary of Representations

Neighbour letters were sent on 15th January 2024 and a site notice was posted on 17th January 2024.

Eleven consultation responses were received, six objecting, including 2 from the Torbay Heritage Trust (TCHT). Five supporting comments were received.

The objections can be summarised as:

- Facility would only be used by a small section of the community,
- A children's play area for all ages (including over-8's) is needed near the seafront of Torquay,
- The area should have a children's play area suited to children with disabilities,
- Unnecessary – there is a padel court on Belgrave Road

TCHT comments:

- The Heritage assessment ignores Torbay Heritage Strategy,
- There are no substantial public benefits,
- The application site is more a part of Abbey Park than of the RICC,
- Objection to car parking element of the proposal – no justification for it,
- Proposes green infrastructure – tree planting is advocated by NPPF,
- Air, noise and visual contamination major detrimental impact on Torre Abbey,
- The site is more part of Abbey Park than of RICC Harms the setting of the Scheduled Monument -Torre Abbey the prime asset Harmful impact on character or appearance of the conservation area,
- Heritage assessment contains errors,
- Proposals are not sustainable.

Supporting comments:

- Growing sport – fun and healthy,
- Shortage of facilities in Devon - have to travel to Plymouth at present, which is often fully booked,
- Popular location with tourists,
- Make better use of existing run-down site,
- Could also try pickleball courts (use conventional tennis courts but lower net)

NB this report can only make recommendations based on the proposals in the current planning application, which does not include a children's play area or pickleball courts.

Summary of Consultation Responses

Consultation responses can be summarised as:

Sport England: 05.02.2024

Sport England aims to protect, enhance and provide sport facilities.

Note the loss of 2 tennis courts to an alternative sport/physical activity that compliments tennis offer in this location. The courts are currently unplayable and unused. Therefore, enhancement and provision of new facilities is viewed positively. The provision of eight cycle spaces is encouraged. The use for two courts for car parking is not mitigated for. Objection to permanent loss of two courts for car parking as against SE objectives. Applicant should consider how these spaces can be retained for sport/physical activity.

Historic England: 02.02.2024

Development to east end of courts is welcomed.

Recommend that car parking on the west end of courts should be screened by enhanced vegetation border.

Highways and Transportation Department: 02.02.2024

Sought clarification of exact number of car parking spaces being created and the nature of temporary parking.

Community Safety Officer: 16.01.2024

No objection

Police: 19.01.2024

Questioned whether courts would be kept locked and the security of cycle parking provisions/CCTV coverage. Car Parking spaces should be marked out and signage provided to direct customers.

DCC Ecology: 11.03.2024

Requested further information about the type of bats at Torre Abbey (whether light averse). Recommended conditions restricting the lighting.

The following were consulted but no response has been received:

Torquay Neighbourhood Plan Forum, Lawn Tennis Association, Devon County Council Archaeology, Drainage Officer, Arboricultural Officer, Sports Development Officer.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of development
2. Impact on Visual Amenity
3. Impact on Heritage Assets
4. Impact on Residential Amenity
5. Impact on Highway Safety and Active Travel
6. Flood Risk and Drainage
7. Sustainability

1. Principle of development

Full planning permission is sought for installation of four padel tennis courts for residents and visitors to Torbay.

The proposal involves using five tennis courts to provide sports facilities for a variation on lawn tennis. The padel courts would use approximately 60% of the courts area. The remaining area would remain open and provide temporary car and cycle parking.

Healthy Torbay

The Council's Healthy Torbay Strategy aims to improve the health of the people of Torbay and tackle health inequalities. The Healthy Torbay Action Plan focuses on Physical activity as one of ten key priorities and identifies a key action as targeting residents' inactivity through sports and leisure provision. In addition, Policy SC1 of the Torbay Local Plan supports developments that provide opportunities for physical activity for residents and visitors.

Padel tennis can be played by all age groups. The facility would be available for use by members of the public. It could be used by people with varying levels of ability from beginners to experienced players and can cater for people with disabilities. Provision of opportunities to take part in this sport are within the aims of the Healthy Torbay Strategy and Action Plan and the proposal is in accordance with Policy SC1.

Sustainable Location

Policy SC2 of the Torbay Local Plan requires new sport and leisure facilities to be in appropriate locations where they are accessible by a range of transport and comply with other policies of the Local Plan.

The application site is located within the Riviera Conference Centre and is adjacent to Torbay Road, within 250 metres of the bus stops for services in both directions. Torquay rail station is approximately 600m away. The Riviera International Conference Centre provides pay and display car parking in its grounds and cycle parking. There is also on-street parking on Torquay Road. Given this positioning, the proposal is considered to be in an accessible location and to comply with Policy SC2 in this respect.

Change of use from tennis courts to padel courts

Policy SC2 requires developments to provide access to sport, leisure and recreation facilities according to the demand, capacity, condition and location of existing facilities. An assessment of existing provision of such facilities will be required with development proposals proportionate to their scale to enable determination of whether a contribution is needed toward new facilities or the enhancement of existing provision.

The Policy goes on to state a presumption against the loss of existing recreational and leisure facilities unless the following criteria are met:

- i) *"An assessment has been undertaken which clearly shows 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."*

This wording reiterates the policy set out in paragraph 103 of the NPPF 2023 (Dec).

Public courts provide a turn-up-and-play option that is open to the community and visitors to the bay. There are also private tennis clubs within the Torbay which provide additional facilities, albeit not accessible to non-members. The provision of public tennis courts in Torbay has been reviewed by Sport England together with the LTA. They have commented that the three tennis facilities at Torquay Abbey Park, Oldway Mansion in Paignton and St Marys Park in Brixham provide a good and varied offer for formal tennis with a mix of indoor and outdoor courts and variety of playing surfaces. The adjacent row of five courts has been enhanced by the Council's Sport Development Team in partnership with the LTA and has a new surface, fencing, nets, floodlighting and on-line booking system and is well used by members of the public. The unused courts on the application site are deemed to not be required to meet unmet demand for formal tennis in Torbay. Therefore, the first criterion can be met.

With regard to the second criterion, the courts on the application site are not usable in their current condition - the surface is broken in places. Investment would be required to bring them back into use for tennis or other sports/recreation activity. The proposal would involve loss of the courts to be replaced by four padel courts catering for doubles games. The proposal includes new surfacing, court walls/fencing, lighting (subject to condition) and an on-line booking system. The sport facilities would be, thereby, be enhanced by the proposal on three tennis courts. The remaining area of two courts is proposed to be used for temporary car parking and cycle parking for the duration of the use of the other three courts for padel. This would involve some marking out of spaces on the surface. However, it would not remove or significantly affect the surface of the courts, which already require resurfacing in order for them to be used for future sport or recreation. The proposal is therefore, considered on balance to meet the second criterion.

With regards to the third criterion, the proposed use is an alternative sport and recreational activity that is not currently provided for at the RICC or at other community facilities in the Bay. There is a padel court at the nearby Torquay Tennis Club. However, the responses to consultations indicate that there is a demand for community-based facilities in Torbay in addition to private club provision. The current proposal would provide four courts open to the public to book. The sport is growing in popularity and is beneficial for strength, mobility, flexibility and coordination as well as enabling social interaction. The proposal would provide an outdoor facility in a central location accessible by a range of transport modes and suited to a range of ages and abilities. The benefit of the proposal is considered to outweigh the temporary loss to associated car parking on part of the site and the proposal meets the third criterion of Policy SC2 and paragraph 103 of the NPPF 2021.

Tourism

The site is within the Core Tourism Investment Area (CTIA) of Torquay Harbour and Waterside. Policy TO1 (Tourism, events and culture) supports new tourism facilities

particularly growth sectors such as sustainable tourism. In principle, the Policy supports the provision of new tourist attractions especially those that are in accessible locations focusing on the Core Tourism Investment Areas.

The proposed facility would add to the range of tourist offers in this seafront location, as well as catering for residents of the area. Therefore, the location within this CTIA is in accordance with Policy TO1.

Local Green Space and Urban Protected Landscape Area

The application site lies within an Urban Landscape Protection Area (ULPA) as designated in the Torbay Local Plan. Policy C5 of the Local Plan identifies that the landscape impacts of development in these areas requires assessment. This is considered in the following section of this report.

The site lies within a Designated Local Green Space (TLGST4) where Policy TE2 of the Torquay Neighbourhood Plan applies. The Policy rules out development other than in very special circumstances such as minor improvements to community access or facilities that support their use for public recreation or amateur sports. The Policy seeks a style that reflects the setting and is consistent with the LGS designation. The proposed padel courts would introduce an accessible public recreation facility and revive use of this part of the Abbey Park. The proposal involves four new court structures and floodlighting. The old chain link fence would be retained on three sides and reused where possible to make the fourth side adjacent to the associated parking area. As such, the proposal is acceptable in principle in accordance with Policy TE2. The visual impact of the structures further to Policy C5 is considered in Section 2 below.

In summary, the proposal would enhance the range of sport and recreation provisions of the RICC and Abbey Park for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan. The principle of the use is acceptable in accordance with the development plan.

The impacts on the urban environment, open space and heritage setting and other Policies of the Local and Neighbourhood Plans are considered below.

2. Visual Impact on Urban Landscape

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'.

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 C5 of the Local Plan identifies that development within an Urban Landscape Protection Area (ULPA) will only be permitted where:

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

Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

Policy TE2 pertaining to Local Green Spaces reads as follows:

“Development is ruled out, other than in very special circumstances. Very special circumstances may include facilities that support their use for public recreation or amateur sports. ... [Proposals] in a style that reflects the setting and the local area which would be consistent with the LGS designation, will be supported.”

The application site is hard-surfaced and enclosed in a 2.8-3m high chain-link fence. It is located between the RICC building and rear car park and the elevated tennis courts.

The RICC building is an example of 1980's commercial modernist design. It is approximately 22m high with a horizontal emphasis in the concrete and glazed banding on its south elevation. The RICC contains recreational facilities such as the swimming pool with flumes, exercise studios and gym.

The surrounding Abbey Park contains outdoors recreation facilities including tennis, bowls, and golf (mini and pitch-and-putt). The adjacent tennis courts are on land 3m higher and enclosed by 4m high fencing with floodlight stantions. Beyond to the south are the bowls greens and garden terraces of Abbey Park, which step down to the sea front.

The proposed padel courts would be positioned in this active urban park setting.

Appearance of the proposals:

The proposal involves the installation of four padel courts on three of the tennis courts, retention and supplementing of surrounding fence and use of the west end (two remaining courts) for open car and cycle parking.

Padel Courts:

The submitted plans and drawings show that each padel court covers 21m x 11.5m (approx. 240sqm). Each court comprises 3m high green wire fencing with 4m high transparent panels and short length of clear containing roof at each end. The entrance doors are on the sides of the court.

The proposed colours for the astro-turf and wire are illustrated in the submitted Material Specification (P-2023-1044 -06) as green RAL 6009. These colours would be muted and not unduly prominent in the context of the park-scape.

The proposed court structures would be over 20m from the base of the RICC. The existing surrounding fencing would be retained on three sides. The layout would be changed to enclose only the four padel courts and exclude the remaining two tennis courts.

The original illustrations included floodlighting proposals with four x 6m high columns per court. Amended Section and elevations show the lighting columns removed. (Details of the levels and type of illumination are to be submitted for approval under condition).

The proposal is low in profile compared to previously approved climbing structures (P/2021/0458 -13m high). Please see Amenity section of report with regards to impact on surroundings.

Section drawings show the relative heights of the RICC, the padel courts and the adjacent tennis courts.

Visual Impact

Impacts on the appearance of the site are considered below in terms of Policies C5 and DE1 of the Torbay Local Plan and Policies TH8 and TE2 of the Neighbourhood Plan.

The proposed use would reintroduce recreational activity and the visual impact of people exercising is appropriate in this setting, in accordance with Policies TE2 and DE1.

Policy C5 of the Torbay Local Plan requires developments to enhance the landscape of the site and TH8 requires an appearance suited to the location.

The padel courts structures would introduce new materials to the three courts. These would be in a style reflecting the immediate setting among other tennis courts, the sports centre and bowls greens. They would also bring the land into active use. These are considered to be enhancements. The nature of the proposed leisure use and appearance of the courts, with use of green coloured fences and flooring would be appropriate to the setting in accordance with Policy TE2 and TH8 of the Torquay Neighbourhood Plan.

The submitted Section Drawing (2850-S1) shows the height and width of the proposed court structures compared to the height of the RICC building. In views from the Abbey Gardens, towards the RICC, the proposed courts would sit below the ground level and within the outline of the RICC building. Given their position between the RICC and the five refurbished and floodlit tennis courts, they would not be intrusive or out of keeping with the appearance and character of their immediate context and surroundings.

The proposal is set down on the land adjacent to the RICC below the level of the upper tennis courts. When viewed from the seafront on Torbay Road, the padel courts and car parking would not be seen due to being screened by the changes in level. Their visual impact in the context of the wider bay would be neutral.

The proposal also includes open car parking and cycle parking structures for eight cycles. The car parking spaces would be marked out at ground level and have very little impact on the appearance of the site from its surroundings. Structures for cycle parking would be low level and have a minimal impact although details can be secured by condition to ensure colours and style are appropriate to the setting. Their presence in the UPLA would have a neutral visual impact.

They would not be easily seen from the terraced gardens/seafront being set down on lower land. The structures would not present an overly dominant or overbearing form when considered against the backdrops of the RICC and tennis courts.

The site is screened from views from Belgrave Road by the existing hotel buildings (Abbey Sands Hotel), which are three and four storeys high. In addition, the boundary is planted with a line of mixed trees, some evergreen and some deciduous, of significant size and which are protected by the Conservation Area status of the location. Given the distance and screening between the two sites, the proposal is not considered likely to impact the appearance or setting of neighbouring built forms.

The impact on views from Torre Abbey grounds is assessed in Section 3 of this report under Heritage Impacts.

Overall, the proposal does not undermine the value of the extensive ULPA as an open or landscaped feature within the urban area. The design, while being functional, uses materials and colours that would not conflict with the setting. The proposal also supports the use of the Local Green Space for public recreation and would reintroduce a leisure activity to this part of the Abbey Park. The design is of a scale and style that reflect the setting. The type and colour of materials has been specified and can be secured through a condition.

In terms of height, scale and bulk, and the choice of materials and colour the proposal is not considered to be out of keeping with the local character of this part of the RICC and Abbey Park. They are considered to reflect the identity of the surroundings in accordance with Policies DE1 and TH8. Subject to the recommended condition, the proposal is, therefore, considered to comply with Policies C5 and TE2 of the Torbay Local Plan.

3. Impact on Heritage Assets

The site lies within the Belgravia Conservation Area and is adjacent to the Torre Abbey (Grade 1 Listed Building and Scheduled Monument).

Guidance on considering the impacts on designated heritage assets is provided in Paragraphs 205 to 208 of the NPPF (2023). Paragraph 205 states that great weight

should be given to an asset's conservation and the more important the asset the greater the weight should be. Paragraphs 207-208 state 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". Policy HE1 of the Local Plan requires developments to preserve the setting of listed buildings and their settings.

Scheduled Monument and Listed Buildings

Scheduled Monument (Torre Abbey ruins) and Grade I Listed Building status (Spanish Barn and Torre Abbey House) are both recognitions of an asset of great importance. Therefore, great weight is due to the preservation of Torre Abbey and its setting. This is recognised in the adopted Torbay Heritage Strategy: objective MED01 being to conserve and enhance its grounds and the connections with wider walking and cycling routes.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Historic England have no objection to the proposed padel courts given their scale (maximum 4m high) and positioning at the eastern end of the application site, approximately 100m from the boundary with the Scheduled Monument site and Listed Buildings.

The line of trees between the application site and the scheduled monument is high and is comprised of mixed deciduous and evergreen species. It provides a certain amount of visual screening between the Abbey Meadows and the RICC/tennis courts in Abbey Park. A Heritage Assessment was submitted which illustrated the degree of visibility of the proposed development in summer and in winter when viewed from positions adjacent to the Scheduled Monument and the Listed Buildings. Historic England (HE) consider the impacts of the proposal on the 12th Century Premonstratensian monastery's domain to be minor and has no objection to the proposed courts. However, they have commented that the parking would be visible and could be screened by an enhanced line of planting.

The Principal Historic Environment Officer has commented that, when viewed from Torre Abbey, the proposal may be glimpsed from certain angles but would not be easily seen. Given the existing townscape and landscape settings and the distance from the Abbey buildings, the proposal courts and parking would have a neutral impact on how the heritage asset of the Abbey is experienced.

The grassed area between the west of the temporary car park and the boundary planting is beyond the application site boundary and would need to be part of the overall landscaping scheme for Abbey Park. Any planting would take time to establish and not be immediately effective and would require maintenance. A certain amount of intervisibility between the RICC grounds and the Abbey grounds enables natural surveillance for people using the footpaths in this area, which is advocated by

Policy DE1 of the Torbay Local Plan. Therefore, a carefully designed planting scheme would be required.

The area in question is outside the application site and not in the ownership of the applicants. However, the applicants and the management of the RICC (Parkwood Leisure Ltd) have indicated willingness have some planting installed in this location to provide some screening. It is recommended that this is secured through a Grampian style condition (where certain events occur before a trigger point) to secure submission and approval of a planting scheme and a timetable for its implementation (e.g. First season after commencement of the use) before the use commences.

Subject to securing this planting, the proposal would accord with the aims and objectives of Policy C5 in providing landscape enhancement in the UPLA, as well as according with the adopted Torbay Heritage Strategy and addressing the concerns of Historic England.

The proposed visitor car parking is temporary by nature and would not have a permanent presence. It can be the subject of a condition requiring its discontinuance in the event of the padel courts no longer operating.

Given the above considerations the proposal is considered to be in compliance with Policy HE1 of the Local Plan Policy TH8 of the Neighbourhood Plan and the NPPF.

Conservation Area

The Listed Buildings and Conservation Areas Act 1990 gives Local Planning Authorities (LPAs) powers in regard to heritage assets. Section 72 requires an LPA, in determining planning proposals, to have special attention to the desirability of preserving and enhancing the character or appearance of a conservation area.

Policy SS10 of the Local Plan states that development proposals will be assessed against criteria including the need to conserve and enhance conservation areas while allowing sympathetic development within them.

The introductory section of the Belgravia Conservation Area Appraisal describes the area as containing residential suburbs, major hotels and significant amount of open space. Apart from Torre Abbey, most of the buildings date from 1860 and after. The RICC is a recent addition and quite rare example of modern architecture in this setting. The area includes coastline, parks, recreation grounds, the walled gardens of Torre Abbey, the Royal Terrace Gardens and private gardens and terraces of numerous hotels.

Therefore, a key element of the Conservation Area's character is its provision of formal and informal recreational opportunities within the historic setting. The recreational activities in the RICC grounds are an intrinsic part of that setting together with pedestrian walkways and seating for spectators. The tennis courts are hard surfaced and surrounded by a 3m high chain-link fence and they have made a neutral contribution to the Conservation Area. However, at present the surface is in a poor state of repair.

Policy SS10 seeks to maintain the character of the conservation area while allowing sympathetic development. The proposal would introduce new structures to this enclosed space. As set out in the considerations of Urban Landscape, the proposed layout and design aim to minimise the impact on the Conservation Area and wider setting while providing recreational opportunities appropriate to the character of the conservation area.

Policies SS10, HE1 and paragraph 208 of the NPPF (2023 Dec) require any harms to be weighed against the public benefit of a scheme. The benefits have been identified as supporting, diversifying and expanding the tourism economy and providing opportunities for healthy physical activities for residents and visitors. The scheme also proposes to improve the surface of the three tennis courts and renew fencing. The less positive features are temporary parking and floodlighting. However, these can be restricted/limited (subject to conditions) to the times of operation of the padel courts. These constitute less-than-substantial harm and are outweighed by the public benefits.

Therefore, the impact on the conservation area is considered to be acceptable subject to the imposition of conditions over materials and colours used, details of the lighting scheme and limits to the hours of lighting. It is therefore considered that, in this case, the public benefits outweigh the less than substantial harms.

4. Impact on Amenity

Policy DE3 requires all development to provide a good level of amenity for users and the surrounding uses in terms of noise, nuisance, and air pollution. There have been no objections based on loss of amenity to neighbouring users and occupiers.

The potential for significant noise nuisance from the proposal is low. The level of noise generated by Padel is not generally louder than other sports/leisure activities such as tennis, when people may call out. The nearest sensitive use is the Hotel in Belgrave Road and its nearest window is over 80m away. The proposed year-round hours of operation are:

- from 6.30am to 9pm Monday to Friday,
- from 8.30am to 6pm Saturday, Sunday and Bank Holidays.

These hours of use are compatible with the opening hours of the RICC gym and pool and the adjacent tennis courts (7am till 9pm). Consequently, subject to a condition limiting the operating hours, the proposed use is not likely to give rise to significant increases in noise nuisance in the park at unsocial hours.

With regards to light pollution, the original submission included a lighting assessment for the proposed lighting scheme. The four padel courts would be floodlit during hours of darkness when the courts are being used. The open hours are reasonably social hours and lighting is unlikely to cause a significant difference to the levels of light over and above that generated by the adjacent tennis courts. The tennis courts illumination is at 500lux while the padel lighting was proposed at 300lux. The tennis courts lighting is on physically higher land than the padel courts and closer to the seafront and the boundary with Torre Abbey. Consequently, the impacts on the

amenity of the park and the seafront in terms of light pollution would be unlikely to be significantly increased. However, the detailed lighting scheme has been withdrawn pending consideration of ecological impacts on bats at Torre Abbey. It is recommended that a detailed scheme is secured through a condition and that the scheme includes directed lighting with restricted upwards and sideways light spill to appropriate levels. It is also recommended that the hours of illumination are limited to those of the operating hours of the proposed padel courts.

Subject to the above-mentioned conditions, the proposal is considered to be acceptable with regard to the amenities of the area further to Policy DE3 of the Local Plan.

5. Impact on Highway Safety and Active Travel

Policy TA1 and TA2 of the Torbay Local Plan promote sustainable locations for new developments and require adequate accessibility and safety to meet the needs of the development.

Policy TA3 of the Torbay Local Plan and Policy TH9 of the Torquay Neighbourhood Plan seek car and cycle parking standards to be met. These are set out in Appendix F of the Local Plan.

Accessibility

The application site is located within the RICC grounds on Torbay Road and Chestnut Road. It is on a major bus route within metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. Cycle parking is available at the Riviera Centre.

For pedestrian and cycle access, the site is accessed from Torbay Road by a flight of stairs, from Torre Abbey grounds by a footpath and directly from the RICC rear car park.

Given this positioning, the proposal is considered to be in a sustainable and accessible location. The proposal provides an opportunity for people to participate in this sport without the obligation to join a private club or to drive to other urban centres (e.g. Plymouth). It provides opportunities for participation in this sport to those who do not have access to a car.

The proposal involves removal of two to five parking spaces to enable vehicle access directly from the rear car park into the new facility. This loss is minor and does not affect the overall parking provision for the RICC and there would be a temporary net increase in parking spaces overall.

Car Parking Provisions

Car parking requirements are included within Appendix F of the adopted Torbay Local Plan 2012-2030 (December 2015). The guideline requirement for leisure and recreation facilities is for 1 parking space per 25m² of gross floorspace. The area of the courts is 4 x 20m x 10m =200sqm x 4 =800sqm yielding a requirement for 32

spaces to serve the courts. However, this is a guide based on average demand for arrange of sports.

The applicants have submitted a transport statement which includes an assessment of the parking demand generated by other padel courts and the refurbished tennis courts. It concludes that both facilities together would generate a total demand for 58 spaces. The padel element would require 12.8 per session (25 at changeover times) based on peak times (weekend mornings) when 16 players would arrive and depart every 90 minutes (assuming 1.25 people per vehicle).

The two tennis courts can accommodate 22 spaces if four of them (18%) are disabled spaces and if cycle parking for eight cycles is also provided.

Overall, it is considered that the additional parking demand could be met by the proposal on site combined with the existing spaces. The submission confirms that the proposed parking is associated with the padel courts and temporary for the period of use of the padel courts. It is, therefore, recommended that a condition be applied requiring the car park use to end when the padel courts are no longer used.

The Highways Section has been consulted and has no objection subject to a condition to secure cycle parking provisions for eight cycles and to seek weatherproof coverings for them. These can be secured through a planning condition.

The pedestrian access to the courts would be from the associated parking area. this would enable people using the with disability parking spaces to access the courts while avoiding the grass-crete car park surfacing at the rear of the RICC.

Subject to the recommended conditions, the proposal is considered to be acceptable further to Policies TA2 and TA3 of the Local Plan.

6. 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 within the Torbay Critical Drainage Area and in Flood Zone 1. A Flood Risk Assessment was submitted, stating that the existing surface water drainage system would be used. The proposal does not involve an increase in impermeable area. The report recommends that the site management monitor Met Office Weather Warnings and cancel bookings in the event of an amber or red weather warning.

The Drainage Officer was consulted on the previous application (P/2021/0458) and had no objections. Subject to implementation of the FRA, the proposal is in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

7. Ecology and Biodiversity

The planning application is for a “minor “development and is not liable for Biodiversity Net Gain under the national legislation.

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

The application has been accompanied by an ecological survey report. The report findings stated that there was no evidence of bats or birds nesting or foraging on the application site. However, the mature trees around the site to the south have potential for bat roosting and bird nesting and Abbey Park provides foraging grounds. The applicants have sought additional information about bat surveys at Torre Abbey and advise that evidence of lesser horseshoe bats was found in 2023. This species is fairly light-averse.

Consequently, and notwithstanding the levels of noise disturbance throughout the day from the various leisure uses in the park and the floodlighting on the tennis courts, the lighting scheme will need to avoid light spill onto the trees on the boundary with Torre Abbey.

The previously submitted lighting scheme light-spill diagram showed some light spill onto the south boundary with Torre Abbey. The report recommends LED light sources with directional light output (hoods, cowls, shields) to limit luminance to below 0.4lux on the southern boundary. However, that element of the scheme has been withdrawn.

It is recommended that details of the flood-lighting scheme be submitted for approval by the LPA prior to installation to ensure they comply with the requirements for light-averse species. These can be secured through a planning condition.

The PEA report recommends, if Biodiversity Net Gain is required, that ground level planters with native species trees be incorporated into the site. It also recommends works outside the site on land owned by the Council: planting of ten trees and installation of bat and bird boxes. The application is not liable for the national BNG requirements and the applicant is a private operator under lease from the RICC. However, a Grampian-style condition to secure planting on the land to the south is recommended further to the heritage considerations and this would provide biodiversity gains.

The proposal therefore complies with Policy NC1 of the Local Plan and Policy TE5 of the Torquay Neighbourhood Plan.

8. Sustainability

Policies SS14 and ES1 of the Local Plan seeks to promote a low-carbon form of development with adaptations to climate change so as to minimise carbon emissions and make more use of natural renewable resources.

The proposal is in a sustainable location where customers can easily access the site by non-car modes. The courts are partly constructed of natural materials: metal and glass.

The activity does not require carbon rich energy sources to be operated. The lighting would use electricity, sourced from the general grid, which includes supplies from renewable sources. On-site renewable provisions were not part of the application and would need to be weighed against the visual impacts on the heritage and landscape setting.

The proposal is, therefore, considered to comply with Policies SS14 and ES1,

Statement on Human Rights and Equalities Issues

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

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

With regards to people with mobility disabilities, the applicant has amended the scheme to provide level access and seating for spectators at ground level for those who are not able or willing to climb to the roof top spectator area.

Local Finance Considerations

S106: not applicable

CIL: not liable

Conclusions and Reasons for Decision

The proposal would enhance the range of sport and recreation provisions of the RICC and Abbey Park for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan.

The visual impacts and identified harms to the setting of the Torre Abbey Scheduled Monument and Grade I listed Building are at the lower end of less than substantial. these harms are considered to be outweighed by the public benefits of the proposal to create accessible and inclusive recreation facilities.

The applicants have agreed to conditions being imposed to submit a lighting scheme that addresses the ecological concerns raised by Devon County Ecologists and to provide a planting scheme to screen the car parking on the application site from views from Torre Abbey. It is, therefore, considered that the harms can be mitigated.

The proposal is, therefore, considered to be in accordance with the development plan taken as a whole, subject to the recommended conditions over use, appearance and management of the site.

Officer Recommendation

Approval subject to:

1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.

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.

Draft Conditions

1. Details of perimeter fence

Prior to commencement of the use hereby permitted details of any new sections of the perimeter fence and access points shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include materials, colour of fencing and position of gates. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: In the interests of the visual appearance of the area including the Belgravia Conservation Area further to Policies DE1 and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

2. Hours of operation

The site shall only be operated for the use hereby permitted between the hours of Monday to Friday 6.30am to 9pm: Saturday, Sunday and Bank Holidays 8.30am to 6pm.

Reason: In the interests of the amenities of Abbey Park and neighbouring occupiers further to Policy DE3 of the Torbay Local Plan.

3. Flood Risk Assessment

The development hereby approved shall be implemented in accordance with the drainage and flood mitigation measures identified in the submitted Flood Risk Assessment (dated 26.05.2021).

Reason: In the interests of public safety and preservation of water quality in the event of flooding further to Policies ER1 and ER2 of the Local Plan.

4. Parking Provision

The development hereby permitted shall not be brought into use before the following have been installed, marked out and made available for use by customers of the padel courts in the locations shown on the approved layout plans:

- a) parking bays as shown on the Site Layout Plan 003.002E,

On the discontinuance of the use hereby permitted the use of the site for car parking shall cease.

Reason: In the interests of pedestrian and cycle access to the site further to Policy TA2 of the Torbay Local Plan.

5. Cycle Parking

Details of secure and weather-protected cycle parking for eight cycles shall be submitted to and agreed in writing by LPA before first use of the development hereby approved. The cycle parking shall be implemented in accordance with the approved details prior to the first use of the padel courts and retained as such for the lifetime of the development. On discontinuance of the use of the padel courts the cycle parking shall be removed unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of reduction of carbon fuel usage and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH9 of the Adopted Torquay Neighbourhood Plan 2012-2030.

6. Planting

Prior to the first use of the car parking hereby permitted a scheme of soft landscaping using native species shall be submitted to and agreed by the Local Planning Authority. The approved scheme shall be implemented in the first planting season following the commencement of the use of the car parking spaces. Any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

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

7. Floodlighting scheme and hours of operation

Prior to the installation of any lighting for the development hereby permitted, a scheme for external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall demonstrate light spill levels of less than 0.5lux on the boundary with Torre Abbey.

The scheme shall include:

- a) LED lights,
- b) use of directional controls on the luminaires (hoods, cowls, shields)

The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

The lighting shall only be illuminated when the courts are in use and within the approved hours of operation. The lights shall not be illuminated outside the approved operating hours.

Reason: In the interests of biodiversity and the amenities of Abbey Park and neighbouring occupiers and further to Policies DE1 and DE3 of the Torbay Local Plan and Policies TH8 and TE2 of the Adopted Torquay Neighbourhood Plan.

8. Reinstatement of site when use discontinued

When the use hereby permitted becomes discontinued, any structures hereby approved shall be removed from the site and the land shall be restored to its former condition in accordance with a timetable and scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance and character of the site further to Policies SS10, DE1 and C5 of the Torbay Local Plan and Policies TH8 and TE2 of the Torquay Neighbourhood Plan.

Approved plans:

Site Location Plan	2580 - LP D (Location Plan)
Proposed Layout	2580 – BP2 Rev E (Block Plan)
Proposed Sections	2580 - SS1 Rev A(E & P Sections)
Proposed Elevations	2580 – 01 Rev A(North)
Proposed Elevations	2580 – 02 Rev A(East)
Proposed Elevations	2580 – 03 Rev A(South)
Proposed Elevations	2580 – 04 Rev A(West)
Specification	P2023-1044-06 (Court Data Sheet)
Flood Risk Assessment	AEG3282_TQ2_Torquay_01
Ecological Assessment	P2023-1044-08 (PEA Bat and Bird)

Relevant Policies

Torbay Local Plan:

- TO1 Tourism, events and culture
- SC1 Healthy Bay
- SC2 Sport, leisure and recreation
- DE1 Design

SS10 Conservation and the historic environment
HE1 Listed buildings
DE3 Development amenity
TA1 Transport and accessibility
TA2 Development access
SS8 Natural environment
C5 Urban Landscape Protection Areas
NC1 Biodiversity and geodiversity
ER1 Flood risk
SS14 Low carbon development and adaptation to climate change
ES1 Energy

Torquay Neighbourhood Plan

TE2 - Local Green Spaces
TH8 – Established Architecture
TH9 – Car Parking

TORBAY COUNCIL

Application Site Address	St Kilda 15 Drew Street Brixham TQ5 9JU
Proposal	Variation of Conditions relating to P/2021/0531 (Partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa. Vary Condition 08: Wording for Schedule of Internal Repair, Condition P1 - Approved Plans: Alter roof material to natural slate and addition of Solar PV. (Revised plans received 05.03.2024).
Application Number	P/2023/1026
Applicant/Agent	Applicant: Mr Neil Edwards – TDA Agent: Mr Andrew Chaplin – KTA Architects Ltd
Date Application Valid	10/01/2024
Decision Due date	10/04/2024
Extension of Time Date	Not applicable.
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the proposed development is on land that is registered as a Torbay Council asset and an objection has been received, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Emily Elliott



Site Details

The site is located to the west of Drew Street close to the centre of Brixham. The town centre lies to the north of the site, and Brixham Hospital can be found within the site's immediate context.

The site consists of two vacant buildings which were formerly used in combination as a retirement home. The first building, St. Kilda's, is a large two and three storey 1970's brown brick building with areas of cream render, green hung tiles and a brown tile roof. This building is sited to towards the rear of the plot. The second building, No.15 Drew Street, is an early C19th 2-storey Grade II listed building, with cream rendered walls, timber windows and a slate roof. This building is sited at the front of the plot and addresses Drew Street. The site has one point of vehicular to the side of No.15 Drew Street, with pedestrian access to No.15 Drew Street from the front of the building.

To the east of the buildings the site is primarily hard landscaped and used for vehicular access and parking. Vegetation is principally low-quality scrub growth around the borders to the north and west of the buildings. Trees to the north and western fringes appear to have been removed within the last few years.

In terms of context the area is predominantly residential in character with interspersed commercial and public buildings in the area.

In terms of topography there is a gentle gradient with land levels dropping from the entrance to the watercourse at the rear of the site. The northern fringe of the site adjacent to this watercourse is identified as having a high risk of flooding with the remainder of the site having a low risk of flooding.

In terms of heritage context as detailed the villa at the front of the site is a listed building. In addition, the adjacent buildings (No.s 17-19) are also listed. The front of the site and villa sit in the Higher Brixham Conservation Area but the rear building and most of the site sit outside the defined boundary of the conservation area.

Description of Development

Variation of conditions relating to P/2021/0531 (Partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa).

This Section 73 application seeks to:

- Vary Condition P1 (Approved Plans) to change the approved roofing material from VMZinc Anthra-Zinc 'slate grey' metal-seamed roof to natural slate and the inclusion of Solar PV to the flatted roof area of the building; and
- Vary the delivery trigger of Condition 8, from:
Prior to the first occupation of the development a detailed schedule of internal repair and remedial work for Number 15 Drew Street, including methods and materials, shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details and shall be completed prior to the occupation of any part of the development.

To:

Prior to the first occupation of the development a detailed schedule of internal repair and remedial work for Number 15 Drew Street, including methods and materials, shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details and shall be completed prior to the ~~occupation of any part of the development~~ first occupation of Number 15 Drew Street.

[Proposed new wording underlined and any deleted text highlighted by strikethrough text]

It should be noted that revised plans were received on 5th March 2024 in response to Officer's concerns regarding the initial proposal of changing the roofing material to thin leading edge concrete tiled roof; seeking bronze window frames and rainwater goods; and the inclusion of solar panels to the southern sections of roofscape.

The application has been referred to Planning Committee as the proposed development is on land that is registered as a Torbay Council asset and an objection has been received, the Council's constitution requires that the application be referred

to the Planning Committee for determination.

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan"); and
- The Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 ("The Neighbourhood Plan").

Material Considerations

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

Relevant Planning History

P/2021/0531: Partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa (Revised and re-advertised). Permission with legal agreement 26/07/2023.

P/2021/0532/LB: Listed Building Consent for works related to this application, associated with the partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa. Approved 27/07/2023.

Summary of Representations

At the time of writing, 1 representation and 2 objections have been received (these are available to read in full online). Issues raised:

Representation:

- Right of access for maintenance.

Objection:

- Impact on local area.
- Traffic and access.
- Overlooking.

The representation and objection received relate to matters that were considered as part of the previously consented scheme and are not affected by this Section 73 application.

Summary of Consultation Responses

Brixham Peninsula Neighbourhood Forum: No objection.

Planning Officer Assessment

Key Issues/Material Considerations

The key issue to consider in relation to this application is the impact of the amendments in regard to the Development Plan and taking into account other material considerations. The key issues are deemed to be the potential visual impact, the potential impact on heritage assets, and the potential for impact upon residential amenity.

1. Design and Visual Impact

The application seeks several minor amendments to the previously approved scheme, summarised as being:

- Changing the approved roofing material from VMZinc Anthra-Zinc 'slate grey' metal-seamed roof to natural slate; and
- Inclusion of Solar PV to the flatted roof area of the building.

Paragraph 131 of the NPPF seeks the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The NPPF confirms that good design is a key aspect of sustainable development, by creating better places in which to live and work and helping make development acceptable to communities. In addition, paragraph 139 of the NPPF states that development which is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy BH5 of the Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area. Policy BH6 of the Neighbourhood Plan provides design guidance in relation to roofscape and dormer management.

Paragraph 140 of the NPPF is clear, local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, for example through changes to approved details such as the materials used.

The change to the roofing material is considered to correspond to the surrounding area and the adjacent heritage assets. It would provide an appropriate and suitable material to the location and context. The proposed material change is considered

acceptable and would not materially alter the quality of the previously approved scheme.

The inclusion of solar PV panels to the flatted roof element of the built form is considered acceptable and would present some obvious energy efficient benefits. The panels have been relocated since the original submission given concerns to the impact on adjacent heritage assets. This relocation is considered to be acceptable, given that the pitched roofscapes would shield views of the panels.

The proposal also includes annotations to confirm that the window frames and rainwater goods will be grey in colour, to adhere to Condition 5 on the previously consented scheme. The windows, doors and rainwater goods will be finished in RAL 7039 Quartz Grey.

It is considered that the proposal does not materially diminish the previously approved scheme in terms of the overall design aesthetic, presenting only minor changes, which retain the design quality of the scheme.

All matters considered policy guidance directs that the scheme is suitable for approval on design and visual impact grounds, in accordance with Policy DE1 of the Local Plan, Policies BH5 and BH6 of the Neighbourhood Plan, and the guidance contained within the NPPF.

2. Impact on Heritage Assets

Policy SS10 of the Local Plan states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make up Torbay's built and natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay. Policy HE1 of the Local Plan states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses. Policy BE1 of the Neighbourhood Plan confirms that proposals which affect designated and non-designated heritage assets must comply with the requirements of the NPPF and the relevant policies contained in the Local Plan.

These policies are aligned with the duties on local planning authorities as required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, for decisions 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 for applications that affect a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Paragraph 195 of the NPPF states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 203 of the NPPF guides that local planning authorities In determining applications, should take account of:

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

Paragraph 205 of the NPPF 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. The NPPF confirms that harm must be clearly and convincingly justified (paragraph 206). Paragraph 207 of the NPPF guides 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.

In terms of heritage assets, the 19th Century building at the front of the site (No.15 Drew Street) is a designated Grade II Listed Building and the remainder of the terrace, outside of the site boundary, is similarly listed. This building and part of the site is also within the boundary of the designated Higher Brixham Conservation Area. The large 20th century care home building and its surrounds deeper within the plot are not listed and sit outside of the conservation area boundary but are within the setting of the conservation area.

The previously consented scheme was supported by a Heritage Impact Assessment (Avalon Planning & Heritage: 18-08-2022), which assessed the context and impacts of the proposed development. This Section 73 application seeks minor amendments to the previously consented scheme, including varying the delivery trigger of Condition 8, this enables the flatted development to be occupied prior to the completion of the internal repair and remedial works to the listed building (No.15 Drew Street). The original wording of Condition 8 would be restrictive and could potentially hinder the sale and/or occupation of the residential units. The variation of Condition 8 would still secure the schedule of works prior to the occupation of the development to address deleterious internal alterations, but would secure the emergency repairs prior to the occupation of No.15 Drew Street. Therefore, the proposed variation of Condition 8 is considered to be acceptable and would maintain securing certainty on addressing the internal state of the building, as well as providing certainty on what works are required before it can be occupied as a dwelling.

The proposed changes to the roofing material would enhance the existing building and would enhance the setting of the listed buildings and the character and appearance of the conservation area and its setting. The inclusion of solar PV panels would be not visually dominant within the scheme and would be shielded from view given the existing roofscapes. When considering the guidance contained within the NPPF, it is considered that the proposals enhance the adjacent heritage assets and ensures that

No.15 Drew Street would become a viable use to enable its conservation and that the proposals make a positive contribution to the local character and distinctiveness.

It is considered that the development will present a positive impact upon the setting of the listed buildings and the character and appearance of the conservation area and its setting.

It is considered that the proposal presents enhancements to the setting of the listed buildings and the setting of the Higher Brixham Conservation Area, and thus accords with Policies SS10 and HE1 of the Local Plan and Policy BH3 of the Neighbourhood Plan, and advice contained within the NPPF.

This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Sections 66 and 72) in terms of listed buildings and conservations areas, and their settings.

3. Residential Amenity

The NPPF (Paragraph 135) guides that decisions should ensure that developments create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development proposals should be designed to ensure a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding uses.

The proposed minor amendments would not alter the previously approved openings in terms of their siting or scale. The proposed amendments would therefore have a negligible impact on neighbours.

Given its siting, scale, and design, it is considered that the proposed minor amendments would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, or access to natural light. The proposal is therefore considered to accord with Policy DE3 of the Local Plan.

4. Low Carbon Development and Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks to minimise carbon emissions and the use of natural resources. Policy ES1 of the Local Plan seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The previously consented scheme was supported by an Energy Statement that included options assessed to reduce the energy needs of the development, including onsite provision of renewables. A planning condition was employed to sure the energy reduction measures contained within such, this Section 73 application includes the provision of solar PV panels, which provides betterment to the previously consented scheme.

A planning condition will be employed to secure details of the solar PV panels prior to their installation. Subject to the aforementioned additional planning condition, the development is in accordance with Policy SS14 and ES1 of the Local Plan and advice contained within the NPPF.

Sustainability

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

The Economic Role

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

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

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

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing, which are intended to be 100% affordable housing within the new build element for older people. Given the NPPF priority to significantly boost the supply of housing, in particular affordable housing, the additional dwellings to be provided must carry significant weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that the proposal does not cause significant harm to residential amenity.

On balance, the social impacts of the development weigh 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 especially relevant to the proposed development are impacts on the heritage, townscape, ecology, biodiversity and surface and foul water drainage. Some of these matters have been considered in detail above and have been considered previously with the original planning permission.

The proposed development is in a sustainable location with a range of public transportation links. It is considered a high-quality redevelopment of a brownfield site, minimising the impact on the listed building, setting of listed buildings, setting of the conservation areas and street scene. It provides betterment in terms of replacing

uncontrolled surface water discharge into a watercourse with a controlled discharge. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

Sustainability Conclusion

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

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

CIL:

The CIL liability for this development is Nil due it being affordable housing.

S106:

Recreational pressures mitigation payment will be required in accordance with the Council's adopted SPD at a level of £135 per dwelling created. This was previously secured via a legal agreement in relation to the original planning permission, which secured an obligation of £3,240.00.

EIA/HRA

EIA:

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

HRA:

The previously consented scheme was reviewed by a Devon County Council Ecologist as consultant for the authority and this included HRA matters. Mitigation was previously secured to counter potential recreational pressures on the calcareous grassland at Berry Head there is not likely to be a Significant Effect on the Annex I habitats - alone or in-combination with other proposals or projects. This mitigation will carry onto this permission.

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 no significant adverse impacts will arise from this development. As such it is concluded that the planning balance is in favour of supporting this proposal.

Conclusions and Reasons for Decision

The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Brixham Peninsula Neighbourhood Plan, and all other material considerations.

This conclusion has been reached in relation to Section 66(2) 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 Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Officer Recommendation

Approval: Subject to;

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

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

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.

Conditions

1. Levels and Watercourse

The development shall proceed in full accordance with the submitted and approved 'Site Section Adjacent to Watercourse (C716/FRA02 REV P) plan and the revised cross sectional drawing 'Proposed Sections' (SK-KT-XX-XX-DR-A-2013-SK210-S0-

P4) dated 24/02/2023, and at no time shall there be any raising of ground levels between the footprint of the building and watercourse or within Flood Zone 2 as part of the development thereafter.

Reason: To safeguard a potential flood flow corridor alongside the watercourse and in order to guard against an increased risk of flooding, in accordance with Policy ER1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

2. Flood Risk and Drainage

The development shall be carried out in accordance with the approved Flood Risk and Drainage Assessment and Addendum document, which shall be implemented in full prior to the first occupation of the development and retained and maintained for the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and in the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

3. Affordable Rent

At all times not less than 20% of the residential units hereby approved shall be occupied (or where vacant) available for occupation as affordable housing for rent as defined in the Glossary to the NPPF (December 2023). Thereafter the affordable units shall remain as such in perpetuity. The affordable units shall be provided in accordance with details submitted to and agreed by the Council's Affordable Housing Manager and shall be constructed at least in accordance with the minimum quality and design standards set by Homes England.

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

4. Obscure Glazing

Notwithstanding detail on the plans hereby approved prior to the first occupation of the relevant apartments the first and second floor windows within the southwest elevation of the 'southern wing' of the apartment building shall be fully obscure glazed to an equivalent of Pilkington Level 3 or higher. The windows shall at all times thereafter be maintained as such.

All other obscure glazing detailed on the plans hereby approved shall be installed prior to the first occupation of the associated apartment and shall be maintained as such at all times.

Reason: To protect neighbour amenity in terms of undue loss of privacy and overlooking, to comply with Policy DE3 of the Adopted Torbay Local Plan 2012-2030 and advice contained within the NPPF.

5. Materials

The apartment building hereby approved shall be finished strictly in accordance with the stated materials schedule.

Reason: To secure an appropriate form of development in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030, Policy BH5 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 and the guidance contained within the NPPF.

6. Construction Management Plan

Prior to the commencement of development a Construction Management Plan shall be submitted to approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of construction traffic, noise and dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays subject to specified exceptions.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Details of construction traffic and vehicle management
- Details of the storage of materials, plant and equipment and;
- Location and details of any construction workers compound and/or facilities building.

Development shall take place in strict accordance with the approved plan.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies TA2 and DE3 of the Adopted Torbay Local Plan 2012-2030. This condition needs to be a pre-commencement condition to ensure the impacts of the development are mitigated from the beginning of the development.

7. Schedule of Repair Work and Vegetation Removal

Prior to the commencement of development, excluding demolition and works pertaining to the approved 'Method Statement for the removal of the 1970s link from the rear wall of St Kilda', or site clearance, a detailed schedule of repair work and vegetation removal, including methods and materials, shall have been submitted to and approved in writing by the Local Planning Authority.

Thereafter the work shall be carried out only in accordance with the approved details and shall be completed prior to the occupation of any part of the development.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030. This is a pre-commencement condition because the works have the potential to harm retained historic fabric and therefore these details need to be agreed before work commences.

8. Internal Repair and Remedial Work – No.15 Drew Street

Prior to the first occupation of the development a detailed schedule of internal repair and remedial work for Number 15 Drew Street, including methods and materials, shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details and shall be completed prior to the first occupation of 15 Drew Street.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

9. Link and Method Statement

The works to remove the existing link as shown within the plans hereby approved shall be carried out in accordance with the 'Method Statement for the removal of the 1970s link from the rear wall of St Kilda' received 01.09.2022. The works shall be carried out prior to the occupation of any part of the development and shall be permanently retained thereafter in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

10. New Doors – No.15 Drew Street

Notwithstanding the approved plans and details prior to the installation of new doors within No.15 Drew Street, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new doors.
- Reveal sections, drawn to a scale of 1:1-1:10.

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

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

11. Boundary and Garden Walls

Notwithstanding detail shown on plan reference SK-KT-XX-XX-DR-A-2013-SK200 - (Version - S0-P5) all proposed boundary and garden walls within the immediate setting of the listed building shall be finished in natural stone. Prior to the first occupation of

the development and prior to the construction of the walls detailed design drawings and a sample panel of all new facing stonework shall be provided on site showing the proposed - stone types, sizes, colour, texture, and face-bond, pointing mortar mix, joint thickness and finish profile, and height and form of all walls.

Approval of the materials and methods shall be confirmed in writing by the Local Planning Authority prior to installation of the materials and development shall then take place in accordance with the approved details. The approved sample panel shall be retained on site until the work is completed.

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

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policies DE1 and HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

12. Bird Nesting Season

The demolition and removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged and a buffer zone of at least 5 metres must be established around the nest and an effective barrier put in place to ensure this remains undisturbed.

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

13. Natural England Licences

Prior to the commencement of development the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
- b) a statement in writing from the licensed bat ecologist to the effect that he/she does not consider that the specified development will require a licence.

Reason: In the interests of the strict protection of European protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF. This is a pre-commencement condition to ensure that a Licence is in place, if required, before development commences and because initial works to commence development have the potential to harm protected species and therefore these details need to be agreed before work commences.

14. Pollution Control Measures

Prior to the first occupation of the development details of ongoing pollution control measures post-construction will be submitted to and approved in writing by the Local

Planning Authority, including mitigation against waterborne pollutants entering the SAC and mitigation for the increased demand on foul water systems. The development shall proceed in full accordance with the approved details at all times thereafter.

Reason: In the interests of protected habitats and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy E8 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 and the NPPF.

15. Construction and Environmental Management Plan

Prior to the commencement of development a Construction and Environmental Management Plan shall be submitted and approved in writing by the Local Planning Authority, which will include details of environmental protection throughout the construction phase. The construction phase of the development shall proceed in full accordance with the approved detail.

Reason: To secure a satisfactory form of development in accordance with Policies DE1, SS8, C4 and NC1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

16. Landscape and Ecological Management Plan

Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include, but not be limited to, the following.

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

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

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

Reason: To secure a satisfactory form of development in accordance with Policies DE1, SS8, C4 and NC1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

17. Lighting Plan

Prior to the first occupation of the development a Lighting Plan shall be submitted to and approved in writing by the Local Planning Authority which shall detail measures and design to avoid any light spill (maximum 0.5lux) onto wildlife habitat (stream, trees,

scrub, vegetation etc). The Plan shall accord with the requirements set out in the submitted Ecological Impact Assessment.

The development shall proceed in full accordance with the lighting details approved and no further or varied external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority.

Reason: To secure a satisfactory form of development in accordance with Policies DE1, SS8, C4 and NC1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

18. Accordance with Ecological Impact Assessment

The development shall be carried out in accordance with the actions set out in the Ecological Impact Assessment and any measures required under licence from Natural England.

Prior to the first occupation of the development details of compliance shall be submitted by a suitably qualified ecologist to the Local Planning Authority and acknowledged.

Reason: To secure a satisfactory form of development in accordance with Policies DE1, SS8, C4 and NC1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

19. Hard and Soft Landscaping

Prior to the first occupation of the development a detailed hard and soft landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted plan shall seek to maximise the biodiversity value of the site.

The approved hard landscaping shall be implemented prior to the first occupation of the development and the approved soft landscaping shall be implemented in full within the first available planting season. The scheme shall be managed for the lifetime of the development in accordance with the approved landscaping scheme.

In the event of failure of any trees/plants, planted in accordance with any approved scheme, to become established and to prosper for a period of 5 years from the date of the completion of implementation of that scheme, such trees/plants shall be replaced in the next planting season.

Reason: In the interests of visual amenity and in accordance with Policies DE1, DE3, SS8 and C4 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

20. Parking Provision

Prior to the first use of the development the parking facilities hereby approved shall have been provided in full. These elements shall thereafter be retained as parking facilities for the exclusive use of the development for the life of the development.

At all times the two parking spaces demarked on the approved plans for '15 Drew Street' shall be retained and solely for the use of the dwelling approved (15 Drew Street).

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

21. Electric Charging Points

Prior to the first occupation of the apartment building at least one Electric Car Charging point shall be provided within the approved car parking area and shall be made operational and available for use by occupants of the apartment development. Once provided facility shall be retained for the life of the development for such purposes.

Prior to the first occupation of 15 Drew Street details of the form and location of one Electric Car Charging point shall be submitted and approved in writing by the Local Planning Authority, which seeks to limit its visual impact and impact upon the listed building or its setting. The approved facility shall be made operational and available for use by occupants of the dwelling prior to its first occupation and once provided facility shall be retained for the life of the development for such purposes.

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

22. Bicycle Storage - Apartments

Prior to the first occupation of the apartment building the cycle storage facilities, as detailed within the approved plans, shall be completed and made available for the purpose of cycle storage to serve the development. Once provided, the storage arrangements shall be retained for the life of the development for such purposes.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Adopted Torbay Local Plan 2012-2030.

23. Bicycle Storage – Dwelling

Prior to the first use of the dwelling hereby approved details of safe and secure cycle parking facilities for at least 2 cycles shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be implemented prior to the first occupation of the dwelling and retained at all times thereafter.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Adopted Torbay Local Plan 2012-2030.

24. Refuse and Recycling

Prior to the occupation of any residential unit hereby approved, the refuse and recycling facilities shown on the approved plans to serve that residential unit shall be provided in full. Once provided the storage arrangements shall be retained for the life of the development.

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

25. Detailed Drawings

Prior to installation detail shall be submitted to and approved in writing by the Local Planning Authority including, but not limited to:

- a) Window and door materials, colours and profiles showing sections at a scale between 1:1 and 1:10.
- b) Reveal sections, drawn to a scale of 1:1-1:10.
- c) Sill and stone surround sections, drawn to a scale of 1:1-1:10.
- d) Details of all fencing and other mains of enclosures including balconies.
- e) Rainwater goods.
- f) Details of parapet cappings.
- g) Details, including materials and colour, of the 'lift overrun'.

The development shall proceed in full accordance with the approved detail and shall be retained as such for the lifetime of the development.

Reason: In order to protect visual character and heritage assets in accordance with Policies DE1, SS10 and DE1 of the Adopted Torbay Local Plan 2012-2030, Policy BH5 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 and advice contained within the NPPF.

26. Energy Reduction Measures

The construction of the development shall be carried out in strict accordance with the energy reduction measures proposed in the Energy Statement hereby approved and shall be maintained as such for the lifetime of the development.

Reason: In the interests of sustainable development and in accordance with Policies SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030, Policy BH7 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 and the NPPF.

27. Secured by Design Standards

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable. Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy BH5 of the Brixham Peninsula Neighbourhood Plan.

28. Age Restriction

The 23 'Later Living' apartments hereby approved shall at all times be occupied by persons aged 55 and over.

Reason: To secure continued use of the form of development hereby approved and to ensure continuation of a satisfactory form of development, in accordance with Policies SS11, H1, H6, DE1, DE3 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policies BH3, BH5 and HW1 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

29. Solar Panels

Prior to the installation of the solar panels as shown on the approved plans, detailed drawings and specification shall be submitted to and approved in writing by the local planning authority. Once approved, the solar panels shall be installed in accordance

with the agreed details and retained in full for the life of the development unless otherwise agreed in writing by the local planning authority.

Should the approved solar panels become redundant, unsafe or damaged beyond economic repair, or cease to function for a period in excess of six months, they shall be permanently removed within a further period of three months.

Reason: In order to protect visual character and heritage assets in accordance with Policies DE1, SS10 and DE1 of the Adopted Torbay Local Plan 2012-2030, Policy BH5 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 and advice contained within the NPPF.

Informative(s)

1. All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1st March - 15th September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.
2. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.
3. The Environmental Permitting (England and Wales) Regulations 2016 require a Flood Risk Activity Permit to be obtained for any activities which will take place:
 - on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)

For further guidance please visit:

<https://www.gov.uk/guidance/floodriskactivitiesenvironmental-permits> or contact SW_Exeter-PSO@environmentagency.gov.uk

A permit is separate to and in addition to any planning permission granted. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted.

4. Community Infrastructure Levy (CIL)
This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough.

CIL next steps required under the CIL Regulations 2010 (as amended):

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development.

The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice.

The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure.

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

Further CIL information and Forms can be found at:

<https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

Development Plan Relevant Policies

SS3 - Presumption in favour of sustainable development

SS10 - Conservation and the historic environment

SS14 - Low carbon development and adaption to climate change

DE1 - Design

DE3 - Development Amenity

ES1 - Energy

HE1 - Listed Buildings

BE1 - Heritage assets and their setting

BH5 - Good design and the town and village Design Statement

BH6 - Roofscape and dormer management