

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