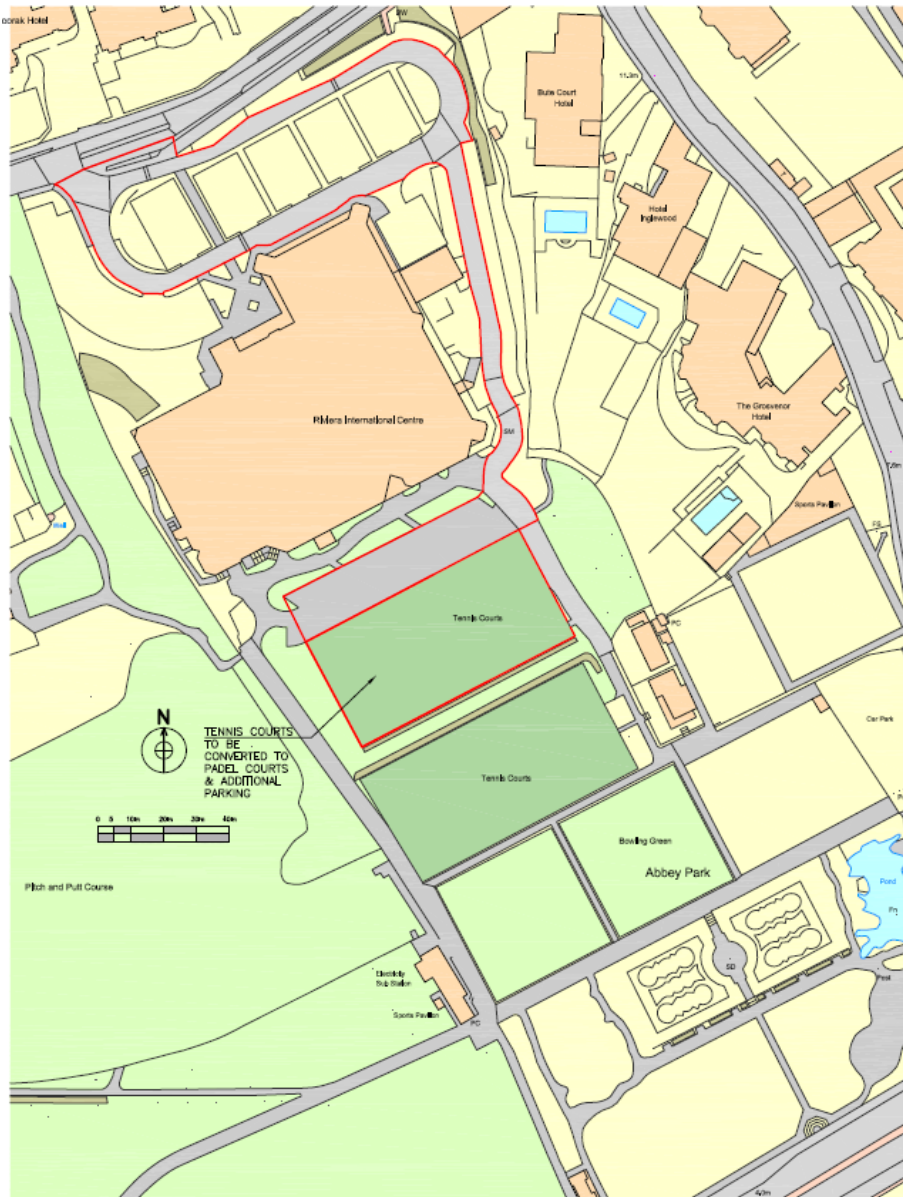


## TORBAY COUNCIL

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 15<sup>th</sup> January 2024 and a site notice was posted on 17<sup>th</sup> 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 12<sup>th</sup> 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 25m<sup>2</sup> 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