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| Application Site Address                  | Eastern Esplanade & Preston Promenade<br>Paignton  |
| Proposal                                  | Installation of coastal defences and associated works.   |
| Application Number                        | P/2023/0905  |
| Applicant                                 | Torbay Council   |
| Agent                                     | N/A  |
| Date Application Valid                    | 22.12.2023   |
| Decision Due Date                         | 22.03.2023   |
| Extension of Time Date                    | 31.07.2024   |
| Recommendation                            | <p>Approval: Subject to;</p> <p>The conditions as outlined, 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> |
| Reason for Referral to Planning Committee | The application has been referred to Planning Committee due it being of a major nature.  |
| Planning Case Officer                     | Emily Elliott  |

**Location Plan**

See next page



## **Site Details**

The application site comprises of two parcels of land, one on Paignton Sands and one on Preston Sands. The site encompasses the Paignton and Preston seafronts incorporating the areas of beach, existing coastal defences, promenades and access points from Esplanade Road and Marine Drive respectively. The application site, when combining both parcels of land, measures approximately 3.49 hectares.

The southern boundary of the application site that covers Paignton Sands is within Roundham and Paignton Harbour Conservation Area and the northern boundary of Paignton Sands is within 15 metres of Polsham Conservation Area. The application site is adjacent to several Grade II listed buildings including the Redcliffe Hotel, the Paignton Club, Parkfield and the Harbour Light Restaurant. The application site also includes a number of non-designated heritage assets including the existing pedestrian shelters, sea walls and Paignton Pier.

The Paignton Sands parcel of land is located within the Paignton Seafront, Harbourside and Green Coastal Park Core Tourism Investment Area as defined by Policy TO1 of the Torbay Local Plan. This parcel of land is also recognised within Policy PNP14 of the Neighbourhood Plan as part of the Paignton Neighbourhood Plan Core Tourism Investment Area. Both Paignton Sands and Preston Sands also located within the Paignton Town Centre Community Investment Area as defined by Policy SS11 of the Torbay Local Plan. Part of the Paignton Sands boundary is within the Paignton Town Centre boundary as defined by Policy TC1 of the Torbay Local Plan.

The application site and wider area is also a Local Green Space, as designated within the Paignton Neighbourhood Plan (Policy PNP1(b)). Both Paignton and Preston Sands are designated as Urban Landscape Protection Areas (Paignton Green North, Paignton Green South and Preston Green) by Policy C5 of the Torbay Local Plan.

The application site is located within Flood Zones 2 and 3 as designated by the Environment Agency and a critical drainage area. It also includes sections of the South West Coast Path and the National Cycle Network. The site is also situated directly adjacent to the Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ), and is approximately 1km away from Roundham Head Site of Special Scientific Interest (SSSI). The application is also within the Great Crested Newt consultation zone.

The land is owned by Torbay Council.

## **Description of Development**

This application seeks planning permission the installation of coastal defences and associated works along Paignton Sands and Preston Sands.

The application involves the following for Paignton Sands:

- Primary flood defence line that will have a length of 790 metres and generally 15 metres width (this includes the embankment and terracing). The primary flood defence will be finished in fair faced precast concrete.

- 7no. steel flood defence gates.
- Resurfaced asphalt lower promenade to northern and southern sections.
- New upper promenade to northern and southern sections with 1no. new planting terrace, 2no. seating terraces and 5no. accessible slopes.
- New showers provided adjacent to existing toilet block.
- 4no. existing shelters relocated to top of flood defences embankments, ensuring ongoing protection from storm events and panoramic views. The shelters will be on ground approximately 1 metre higher.
- 2no. new bound gravel pedestrian footpaths provided over the Greens following historic path locations.
- New turning head for disabled and servicing vehicles.
- 8no. disabled spaces located at the centre of the seafront providing easy access to the mobility toilet, and nearby seafront amenities.
- 1no. loading space.
- 7no. informal pedestrian crossings to seafront access steps and slopes across the highway and 2no. across the cycleway.
- New GeoPark Café.
- 2 existing kiosks relocated behind the flood defences, kiosks on plinths relocated to promenade.
- Landward side of flood defences integrated with the existing Geoplay Park.
- 210 metres of new terraced seating along the promenade, as well as 24no. cube seats.
- 47no. new cycle parking spaces and facilities.
- New vehicular access adjacent to the Adventure Golf.
- Contra-flow cycleways retained to north and south Eastern Esplanade.
- 33no. existing lighting columns to be relocated and 5no. existing light columns to be retained in their existing location, to ensure it complies with existing best practice and to remove any dark spots.
- 21no. existing bins relocated and retention of existing CCTV columns.

The application involves the following for Preston Sands:

- Primary flood defence wall that will have a length of 373 metres and approximately 0.55 metres wide. The primary flood defence will be finished in locally sourced stone cladding.
- 17no. steel flood defence gates.
- Resurfaced asphalt lower promenade.
- Replaced upper promenade with stepped front edge, that will provide 2no. steps.
- 5no. accessible slopes to shelters and cafe.
- Spaces along the upper promenade provided for existing reconditioned shelters.
- Space provided for existing cafe building on upper promenade, along with cafe seating/spill out space.
- Edge to Seaway Road/ Marine Parade entrance re-profiled to provide new cycleway link and accessible pedestrian slope.
- 3no. platform benches and approximately 70 metres of timber benches to lower promenade.
- Re-profiled access slope to beach, that will not affect the existing gradient.
- Existing duplicate walls and ramps removed to simplify amphitheatre space.

- 10no. new cycle parking spaces.
- 16no. existing lighting columns to be relocated and 5no. existing light columns to be retained in their existing location, to ensure it complies with existing best practice and to remove any dark spots.
- 5no. existing bins relocated, 1no. CCTV column refurbished, 8no. beach front lockers, 1no. paddle board storage facility.

### **Pre-Application Enquiry**

An informal pre-application response was provided on 30.08.2023. The detailed response states that there would be no in-principle objections to the proposal. A copy of the written response has been submitted within this planning application.

### **Relevant Planning Policy Context**

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

### **Development Plan**

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

### **Material Considerations**

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

### **Relevant Planning History**

No previous relevant planning history relating to the application site.

### **Summary of Representations**

The application was advertised through neighbour notification letters, site notices and a newspaper advertisement. The application has also been re-advertised and re-consulted on more recently given the receipt of additional information in May 2024.

Seven letters of objections and two letters of support has been received. A summary of responses is set out below.

Concerns raised in the objections include:

- Loss of vehicular access
- Loss of parking
- Impact on traffic flow and safety
- Impact on local area
- Displacement/removal of beach huts
- Overdevelopment
- Lack of consultation

Comments raised in support include:

- Impact on local area
- It provides facilities
- Makes tourist facilities better

## **Summary of Consultation Responses**

### **Torbay Council's Principal Policy and Project Planner (17.01.2024):**

This application raises a number of technical issues particularly around flooding, impact on marine ecology, recreation, heritage, Global geopark etc. There is also likely to be a high level of public interest in the proposal.

This response sets out a high level planning policy comment, setting out the importance of providing coastal defence works. I note that an assessment of local and neighbourhood plan policies is set out in the Planning Statement submitted by Royal HaskoningDHV. Rob Palmer has also produced a detailed pre-application advice note. The scheme has been developed over several years and included pre-application consultation which contributed towards the LDA Design masterplan for the site Paignton and Preston coastal flood protection scheme - Torbay Council.

Much of Paignton to the east of the railway line is within Flood Zone 3 and subject to overtopping. It is vital to the regeneration of the town that coastal defences and resilience to chaotic climate events are provided. The existing Torbay Local Plan 2012-30 and Paignton Neighbourhood Plan place a great deal of emphasis on urban regeneration and maximising housing and other development opportunities within the existing built up area.

Policy SDP2 of the Local Plan identifies the need for resilience measures from sea level rise. Key regeneration sites within Paignton, proposed by SDP2 require the provision of long term flood defence measures. The nature of the required sea defence works has crystallised significantly since the Local Plan's adoption in 2015, so the proposal is not indicated on the Policies Map. However, Policies SS7, Infrastructure, SS14 Low carbon development and adaptation to climate change, SDP2 Paignton Town Centre and Seafront, C2 Developed Coast, C3 Coastal change Management ER1 Flood risk and ER2 Water management broadly support the proposal. Development within Paignton Town Centre will depend upon the sea defence works to comply with the Local Plan. The Local Plan also requires Habitats Regulations and marine ecology to be taken into account.

Similarly the Paignton Town Centre Masterplan SPD (June 2015) was written at a time when the detailed proposals for sea defences were at an early stage, but draft ideas are set out on page 26 of the SPD.

Policy PNP15 of the Neighbourhood Plan "Flood and Sea Defences" makes reference to the need for developer contributions towards strengthening coastal defences. PNP13 supports housing developments in the town centre and harbour area and notes the need for flood resilience.

On that basis, the overarching policy comment is that the coastal defences are a critical piece of infrastructure needed to deliver sustainable development in Paignton and safeguard the existing "Garden Suburb" part of the town.

In terms of specific site designations, Paignton Esplanade is within the Core Tourism Investment Area, Urban Landscape Protection Area, and Coastal Change Management Area (Policy C3). The national cycle network and South West Coast Path run along the site. Policies SS8, NC1, C2 are relevant in relation to marine ecology.

The Paignton Neighbourhood Plan designates both the Paignton Green and Preston Green as Local Green Spaces (PNP1(b)). In my assessment the provision of essential flood defence works constitutes a very special circumstance to allow development.

Part of the area at the North of the Esplanade is within Polsham Park Conservation Area.

I hope that the above sets out a broad Local Plan policy support for the proposal, which is an important piece of infrastructure need to support regeneration of Paignton. As noted, the proposal will affect a number of technical and related policy issues. Please contact the Team if you have queries about any of these. Rose Bailey Clark or Ashwag Shimin would be best placed to answer any specific Marine SAC, ecology or HRA matters.

**Marine Management Organisation:**

No response received.

**Torbay Council's Senior Environmental Health Officer (10.01.2024):**

No objection.

**Torbay Council's Service Manager Engineering (30.01.2024):**

The proposed development lies within Flood Zone 3 and the developer has submitted a site specific flood risk assessment in support of the planning application. The proposed development relates to the construction of new coastal flood defences which will significantly reduce the risk of coastal flooding to Paignton and Preston. The proposal includes for a new access road which will increase the impermeable area of the site. The developer is proposing to discharge surface water run-off from the access road using soakaways, please use the recently agreed standing advice for this planning application. As the proposed scheme will significantly reduce the risk of flooding in the Paignton and Preston areas of Torbay, I have no objections on drainage grounds to planning permission being granted for this scheme.

**Environment Agency (25.01.2024):**

No objection. The application site is located partially within areas of flood zone 2 (medium probability of flooding) and 3 (high probability of flooding) associated with both fluvial and tidal sources. We have reviewed the submitted Flood Risk Assessment (FRA) (ref.: 3095 dated September 2023 (on title page) by TDA group). We are satisfied that the proposed measures would comply with the overall requirements of the National Planning Policy and associated Planning Practice Guidance. The proposed measures will clearly deliver a reduction in flood risk including that posed by climate change over the lifetime of the development.

**Torbay Council's Principal Climate Emergency Officer (16.01.2024):**

Recommends planning conditions to carbon emissions and sustainability.

**SWISCo's Senior Tree Officer (23.01.2024):**

No objections subject to planning conditions being applied to secure tree protection and soft landscaping.

**SWISCO's Green Infrastructure Service Manager:**

No response received.

**Devon County Council's Principal Ecologist (07.06.2024):**

Bat surveys of the buildings indicated that there are no bat roosts present within the redline boundary, and GCN surveys indicated the waterbodies do not support this species either.

The BNG information has been completed correctly and fully justified. I note that it does not provide a 10% net gain in biodiversity, but at the time of this application statutory BNG was not in force and Torbay do not have a local plan policy indicated a certain amount of net gain to be achieved. Therefore I believe in this instance that the proposals are sufficient.

The HRA has already been approved by Natural England and there some details present within that HRA document that will require conditioning. The recommendations within the revised/finalised ecology report will also need to be conditioned.

**Natural England (29.04.2024):**

No objection subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Lyme Bay and Torbay Special Area of Conservation (SAC)
- hinder the conservation objectives of the Torbay Marine Conservation Zone (MCZ)

In order to mitigate adverse effects and make the development acceptable, the mitigation measures as detailed within the Habitats Regulations Assessment (HRA) and the MCZ Assessment should be secured via an appropriate planning condition or obligation attached to any planning permission.

**Devon and Cornwall Designing-Out Crime Police Officer (29.01.2024):**

No objections, subject to a planning condition to secure details of CCTV. Recommendations are also given in relation to bicycle stands, beachfront lockers, kayak and paddleboard storage, beach shelters, and materials that prevent graffiti.

**Torbay Council's Principal Historic Environment Officer (13.06.2024):**

Relevant Policy

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 66 (1) of the same act states that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local



planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

This statutory requirement needs to be considered alongside relevant heritage guidance contained in the National Planning Policy Framework (2023) which recognises that heritage assets range from sites and buildings of local historic value to those of the highest significance. It requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (Para 201).

Paragraph 203 goes on to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 considers 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’.

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification’ (Para 206).

Paragraph 208 adds 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’.

With regards to non-designated heritage assets, paragraph 209 advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

In terms of the Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policy SS10 of the Local Plan).

#### Significance of identified Heritage Assets:

The proposals have the potential to impact on a number of designated heritage assets. Elements of the site border the Polsham Conservation Area (to the north-west of The Green) and the Roundham & Paignton Harbour Conservation Area (to the south of Paignton Sands).

Close to the site boundary are three Grade II listed buildings; The Paignton Club to the south of Paignton Sands, Parkfield to the northwest of Paignton Sands and the Redcliffe Hotel located between Paignton Sands and Preston Sands.

The site also includes a number of non-designated heritage assets including existing pedestrian shelters, sea walls and Paignton Pier. The submitted Heritage Significance Statement (on page 2) helpfully outlines both designated and non-designated heritage assets which would potentially be impacted by the proposed development and makes an assessment of their significance. This thorough and considered assessment of significance is agreed with.

#### Impact on Significance of Heritage Assets:

The proposals are seen as an opportunity to not only deliver flood protection measures but to also result in a high-quality public realm which respects and is influenced by the history, cultural significance and evolution of the area.

The Council's Heritage Strategy supports this approach and states that:

"New flood defence schemes should recognise local distinctiveness in design and materials and take into account their relationship to heritage assets" (SEC04)

It is clear from the submitted heritage statement that a range of heritage assets both designated and non-designated could be impacted by the proposals, however, it is considered that the proposals would not cause any demonstrable harm to the heritage assets identified.

If high quality materials are used within the various aspects of the proposals (including new structures, public realm elements, and the use of natural stone cladding to the proposed sea wall) and existing pedestrian shelters sensitively repaired and repurposed, it is considered that the proposals would have a neutral impact to the significance of affected heritage assets.

In addition, positive impact can be identified when considering the number of heritage assets, specifically those which are located east of the railway line, which would stand to benefit from the reduced flood risk afforded through the implementation of the scheme.

As a result, it is considered that the proposed development would overall have a positive impact on the significance of the heritage assets identified within the submission and beyond further into Paignton.

In order to ensure that this positive impact is delivered, all finishes and design of public realm features should be of high quality and secured through condition, along with an appropriately detailed method specification for the repair and repurposing of the existing shelters where identified. The use of natural stone to match historical examples within and bordering the site is particularly encouraged.

#### Conclusions

The proposed development is supported from an historic environment perspective, subject to further details of materials, finishes and detailed design being secured through appropriately worded conditions.

**Active Travel England (30.01.2024):**

Deferral: ATE is not currently in a position to support this application and requests further assessment, evidence, revisions and/or dialogue as set out in this response.

As a result, ATE is broadly supportive of the proposed development. However, one area of concern has been identified in relation to motor vehicle parking and the safety of cyclists on the Eastern Esplanade. A possible amendment is provided for consideration by the local planning and highway authorities on this concern and ATE would welcome the views of the local authority on the suitability of this alteration.

Areas of Concern - Parking and cycle lanes on Eastern Esplanade

- The street arrangement on the Eastern Esplanade south of the pedestrianised area is to remain largely unchanged. This includes sea-facing diagonal parking spaces abutting the sea wall, with the one-way carriageway behind these and a contraflow cycle lane adjacent to the footway.
- The cycle-contraflow means that cyclists would travel in the direction of traffic flow, which is not in itself a concern, however when considered in combination with the diagonal parking spaces (where motor vehicles will be reversing out) and the one way street (which means drivers may have their primary focus on vehicles approaching from the north when making this manoeuvre) this represents a potential critical issue. Cyclists would be travelling along this highway with no physical segregation in an area where cars will be reversing out of parking spaces.
- Additionally, loading and unloading of motor vehicles and their boots occurs right onto the carriageway, which may push travelling vehicles into the advisory contraflow cycle lane. It also requires pedestrians who have exited parked vehicles to either walk on the carriageway alongside the parked vehicles, again pushing travelling vehicles into the cycle lane, or to cross to the esplanade footway and then cross back to get to the beach.
- It is noted that ATE's Inspectorate team have previously identified similar arrangements along seafront highways as being critical issues for the safety of cyclists.
- It is acknowledged that this is the existing arrangement and the application has not identified any significant safety or collision data, however, one of the objectives of the application is to encourage more cycle movements through providing improvements to the cycle route along the Eastern Esplanade and so it may be expected that cycle numbers along the contraflow lane will increase and potential for conflict will increase also.
- One solution could be to relocate motor vehicle parking adjacent to the footway rather than the sea wall, while keeping the same orientation of the diagonal parking spaces. This would require motorists to reverse into spaces and face towards the beach. In doing so, visibility of contraflow cyclist would be improved when making the reversing manoeuvre, and when exiting the parking space this would be undertaken in a forward gear, again with good visibility. Such an arrangement would also mean that when exiting a motor vehicle and unloading the boot this would occur immediately onto the footway,

reducing potential conflict between these users and motor vehicles travelling along the carriageway.

- Should this alteration not be desirable or achievable, then ATE would recommend that the existing arrangement be altered to provide greater visual and physical segregation to the contraflow cycle lane to provide better protection for cyclists and greater awareness to drivers making manoeuvres that cyclist will be travelling contraflow.

Please note that Active Travel England have been re-consulted given the additional information received, an update will be given to Members at Planning Committee.

**WSP on behalf of the Local Highway Authority (31.01.2024):**

Objection due to the submission of insufficient information.

Please note that the Local Highway Authority have been re-consulted given the additional information received, an update will be given to Members at Planning Committee.

**Geopark Coordinator:**

No response has been received before the publication of this report. An update will be given to Members at Planning Committee.

**Planning Officer Assessment**

1. Principle of Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Residential Amenity
5. Highways Access and Safety
6. Landscape
7. Ecology and Biodiversity
8. Flood Risk and Drainage
9. Low Carbon Development
10. Designing Out Crime

**1. Principle of Development**

The existing coastal defences along Paignton and Preston Sands help protect some of the flooding within the Paignton and Preston area, however there are instances where there is overtopping. The existing coastal defences are inadequate during high tides and easterly wind conditions, resulting in many properties being flooded and damage being caused to critical infrastructure. The existing coastal defences were considered to be constructed during the end of the 19<sup>th</sup> century.

The proposed development is for the installation of coastal defences and associated works across Paignton Sands and Preston Sands. The proposed coastal defences are the minimum height necessary to provide protection to over 400 properties and the railway line from extreme tidal events. The proposed development is engineered to resist the impact of direct wave energy or alternatively to dissipate it; resist erosion from mobile sediments; and resist deterioration under saline attack. The anticipated future extents of flooding are expected to extend given the impact of climate change and the implications of such on sea levels,

therefore the proposed development would assist at alleviating flood risk.

The proposed development builds upon the Paignton & Preston Community Seafront Masterplan. The proposed development would also help to deliver the objectives of Policy PNP15 of the Neighbourhood Plan which includes reducing the risk of flooding from seawater and protection from rising sea levels. Policy PNP4 of the Neighbourhood Plan seeks the improvement of the seafront, including the upgrading of the public realm and public shelters to provide enhanced seating, weather protected and information facilities to improve the tourism offer. The proposed development is considered to be of a nature and scale that would be consistent with its surroundings and character of the area and is necessary development to assist in protecting Paignton and Preston from tidal and storm surges taking into account climate change.

The site, both Paignton Sands and Preston Sands, are designated Local Green Space within the Paignton Neighbourhood Plan under Policy PNP1(b). The policy guides that development proposals will only be supported in very special circumstances. The policy cites that 'very special circumstances' will not exist unless the potential harm to these local green spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The NPPF outlines that the designation of Local Green Spaces allows communities to identify and protect green areas of particular importance to them. Paragraph 107 of the NPPF confirms that policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraph 152 of the NPPF states "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". The NPPF sets out inappropriate forms of development. The proposed development is an important piece of infrastructure that is needed to support the regeneration of Paignton and to protect the existing built environment, therefore it is considered that the proposal constitutes very special circumstances.

Policy C2 of the Local Plan cites that development will be permitted in the developed areas of the coast where it benefits the economy and does not unacceptably harm the landscape character and appearance of natural, historic or geological assets. The proposed development will benefit the economy by ensuring flood resilience to a number of commercial properties that currently experience flooding during extreme tidal events. The application has been supported by ecological and heritage statements, such matters are discussed later in this report. Policy C3 of the Local Plan outlines that the Council will support measures that are compatible with or actively support coastal change management. The proposed development will positively affect the surrounding area to ensure that there is alleviation from the risk of flooding.

The site is located within the Paignton Seafront, Harbourside and Green Coastal Park Core Tourism Investment Area. Policy TO1 of the Local Plan seeks that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. It furthers that tourist facilities will be improved, and modernised and new tourism facilities provided, in order to attract new visitors. The policy supports in principle the provision of new tourist attractions, subject to other Policies in the Local Plan. The policy supports the retention, improvement and creation of high-quality tourism and leisure attractions in sustainable, accessible, locations with a particular focus on Core Tourism Investment Areas as the areas for investment in tourism. The proposed development will

enhance the public realm of Paignton Sands and Preston Sands, promote sustainable transport, and provide a resilient coastal defence to assist in ensuring the longevity of Torbay's tourism offer.

The site is also located within the Paignton Town Centre Community Investment Area as defined by Policy SS11 of the Local Plan and Policy PNP14 of the Neighbourhood Plan. Policy SS11 states that development proposals will be supported in principle where they regenerate or lead to the improvement of social, economic or environmental conditions in Torbay. Policy PNP14 seeks to improve the tourism opportunities in the seafront Core Tourism Investment Area.

Policy SDP2 of the Local Plan confirms that development within the Paignton Town Centre and Seafront areas needs to be resilient to the effects of the sea level rise and contribute towards the provision of flood defences. Policy SS7 of the Local Plan outlines that in order for development to be permitted, development must be supported by the provision of critical infrastructure to enable development to proceed, and specifically references critical flooding infrastructure. The Policy goes on to state that major development is expected to contribute to the provision of an appropriate range of physical, social and environmental infrastructure, commensurate to the type and scale of development, and the needs of the area. The proposed development is a critical piece of infrastructure that will assist in bringing forward development in the Paignton Town Centre and Seafront area.

The proposed development is anticipated to take approximately 4 years to deliver, given that a contractor is yet to be tendered, a planning condition is recommended to secure a phasing plan to ensure that the proposed development is undertaken in stages to prevent unnecessary disruption to both seafronts.

In conclusion, the principle of development is considered to be acceptable. The proposed development is a crucial piece of infrastructure that will provide essential flood resilience for Paignton, there are no Development Plan policies indicating that the proposal is not acceptable in principle.

## **2. Design and Visual Impact**

It is important to note that achieving good design is a central thread within national guidance and Part 12 of the NPPF "Achieving well-designed and beautiful places" offers key guidance on this. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 goes on to state 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. In addition, paragraph 139 states that "*development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design*". 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 PNP1(c) is the key policy tool within the Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The proposal involves the construction of approximately 1,163 metres of primary flood defences including 24no. steel flood defence gates, resurfacing of the lower promenades, a new Geopark Café, the inclusion of associated works, landscaping and public realm features including seating, lockers and paddle board storage.

The applicant commissioned a Seafront Masterplan in 2022 that was produced by LDA, the following principles were established:

- Put pedestrian movement and safety first;
- Ensure the seafront is accessible for all;
- Reduce visual impact and severance caused by vehicles on the seafront;
- Flood defences should support existing businesses along the seafronts;
- Flood defences should support the local character of the seafronts;
- The seafront provides space for a range of activities and uses throughout the year, and supports tourism within Torbay and the town;
- Views of the sea and beach are retained from the promenade; and
- Provide space for new planting that supports local flora and fauna.

The applicant has undertaken an extensive community and stakeholder engagement process prior to the submission of the application, this is evidenced within the supporting Design and Access Statement. A letter of support has commented that the proposed development would have a positive impact on the local area, make existing tourist facilities better, as well as providing facilities.

The proposed coastal defence across Paignton Seafront would have a height of +5.50m AOD, this is proposed across both northern and southern sections of Paignton Green. The core width of the promenade is to be retained and the proposal provides an additional upper promenade that the reconditioned public shelters will be accessed from. The events space across Paignton Green will be retained with only a minor reduction of space along the seaward edge to provide the embankment. The landward side of the coastal defence shall be achieved through a grass embankment, with the seaward side having a terraced arrangement. The proposal involves the removal of a section of parking (74no. parking spaces) to make way for a central public realm space, this will enable a new Geoplay Park Café (details of which are to be agreed through planning condition to secure good design), the existing kiosk businesses to be relocated and a spill out space for the Geoplay Park which will remain unaffected by the proposal. The existing public shelters will be retained, reconditioned and relocated to provide use to all, all year round.

The site (Paignton Green North, Paignton Green South and Preston Green) is located within areas designated as Urban Landscape Protection Areas (ULPAs) as defined by Policy C5 of the Local Plan. Policy C5 specifies that development within an 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.

It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPAs, subject to a suitable landscaping. It is considered that it is possible to develop the site for the type and quantum of

development as set out in the proposal without having an unacceptable adverse impact on the ULPAs in terms of the proposal not undermining the value of the ULPAs as an open or landscaped feature within the urban area as the proposal is anticipated given the coastal location. The proposed development would make a positive contribution to the urban environment and enhance the landscape character of the ULPAs, through the enhanced public realm and landscaping proposed.

The detailing of the primary coastal defence has not been confirmed in full, the supporting Design and Access Statement outlines that it will need to be constructed from concrete, however the use of local aggregates and natural stone cladding would be sympathetic to the adjacent listed buildings and conservation area, as well as providing an attractive, interesting linear structure, typical in coastal towns. This choice of material would also reduce the potential for graffiti. A planning condition is recommended to secure detailing and samples of the coastal defences. To ensure robust, flood resilient and future-proofed coastal defences are provided, a planning condition is recommended to secure the methodology of construction for the coastal defences.

Similarly, details of the flood gates have not been provided, a planning condition is recommended to ensure high quality design within such prominent public realm areas. The submitted scheme does not include a feature wall, not to preclude such coming forward, a planning condition has been recommended to include details of the finish, which elements of public art, wayfinding etc. can be included within.

The proposed coastal defence across Preston Seafront will be situated between the two existing lines of beach huts, the proposed height of the defence will be +5.90m AOD and a 550mm thickness. The proposed coastal defence will be clad in natural stone to mirror the colour and texture of the existing sea defence, a planning condition is recommended to secure details of the natural stone.

Concerns with the objections received include fears of the displacement/removal of the existing beach huts along Preston Seafront, as well as the impact of the proposed development on the local area and it constituting overdevelopment. The 326no. beach huts along Preston Seafront are to be retained, with 181no. on the landward side and 145no. on the seaward side. It will be trialled as to whether the landward side beach huts can be permanently retained in situ or whether they will have to be removed in autumn due to the weather conditions. The existing public shelters will be retained, reconditioned and relocated to provide use to all, all year round. The proposal includes lockers and paddleboard lockers. The existing kiosk, Sara's Café will be retained within the scheme. The proposed coastal defence across Preston Sands is anticipated to be a natural stone cladding to tie into the existing sea defences, this would also mitigate the visual impact of the proposal. A planning condition is recommended to secure detailing and samples for the built form.

In terms of street furniture, the supporting Design and Access Statement indicates that there will be litter bins, cycle stands, handrails, benches, lockers and showers. A planning condition is recommended to secure details of such prior to their installation. A Management Strategy has also been recommended as a planning condition to ensure that the public realm and landscaped areas are maintained for the lifetime of the development



to ensure a high quality development.

To ensure high quality promenades and public realm spaces, a planning condition has been recommended to secure hard surfacing materials to ensure the proposal lends itself to its prominent coastal location and blends within the surrounding area.

The application is supported by a Landscape and Visual Appraisal (October 2023). The application site is located within the Low Lying Coast and/or Beach (Devon Type 4G). The Appraisal confirms that the application site is not located within any designated landscapes at a national or local level. The Appraisal confirms that the views across Tor Bay would be unaffected with inward views marginally affected by the slight increase height of the sea wall. The proposed development is a critical piece of infrastructure that would be visually anticipated given its coastal location. With a suitable materials palette and a robust soft and hard landscaping scheme, it is considered that the proposed development would provide improved coastal defences and public realm in keeping with the locality.

Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy DE1 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan and the guidance contained within the NPPF.

### **3. Impact on Heritage Assets**

The southern boundary of the application site that covers Paignton Sands is within Roundham and Paignton Harbour Conservation Area and the northern boundary of Paignton Sands is within 15 metres of Polsham Conservation Area. The application site is adjacent to four Grade II listed buildings (the Redcliffe Hotel, Paignton Club, Parkfield and the Harbour Light Restaurant). The Council's Principal Historic Environment Officer has confirmed that the existing public shelters, sea walls and Paignton Pier are non-designated heritage assets. The application is supported by a Heritage Significance Statement (Daniel J Metcalfe, October 2023).

Policy SS10 of the Local Plan requires development to sustain and enhance assets and adds that all assets will be conserved proportionate to their importance and concludes that proposals that enhance heritage assets or their setting will be supported. Policy PNP1 of the Neighbourhood Plan outlines that sustainable development will be achieved through, amongst other elements, the enhancement of heritage features.

It is also incumbent on the Authority, in exercising its duties, under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 66(1)), to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, and (Section 72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

This statutory requirement needs to be considered alongside the NPPF which recognises that heritage assets range from sites and buildings of local historic value to those of the highest significance.

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. The NPPF outlines that the conservation of heritage assets should be given great weight in decision making (Paragraph 205 refers).

Paragraph 203 of the NPPF goes onto to state that in determining applications, local planning authorities should take account of:

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

Paragraph 205 of the NPPF considers that *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. Paragraph 206 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), requires clear and convincing justification. Paragraph 208 of the NPPF outlines 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.

With regards to non-designated heritage assets, Paragraph 209 of the NPPF advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The application is supported by a Heritage Significance Statement which covers the range of heritage assets both designated and non-designated that could be impacted by the proposal. The Council’s Principal Historic Environment Officer has been consulted on the application and has confirmed that the proposed development would not cause any demonstrable harm to the heritage assets identified. The Council’s Officer has stated that subject to the use of high-quality materials, the proposal would have a neutral impact to the significance of affected heritage assets. The proposed development would provide a positive public benefits to the heritage assets east of the railway line given the reduced flood risk afforded through the implementation of the scheme. The Council’s Officer has concluded that the proposed development would overall have a positive impact on the significance of the heritage assets identified within the application site, surrounding area and beyond further into Paignton, subject to planning conditions to secure materials and a detailed method specification for the repair and repurposing of the existing shelters.

Subject to the recommended planning conditions, the proposal is considered to accord with Policy SS10 of the Local Plan and Policy PNP1 of the Neighbourhood Plan.

This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses and for development that affects a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of such.

#### **4. Residential Amenity**

Paragraph 135 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan seeks to secure development that does not unduly impact upon the amenity of neighbouring and surrounding uses, with impact being assessed to include noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

The scale and location of the proposed works are considered to be suitable and acceptable. Its form and location would have little impact upon nearby residents and would assist at protecting surrounding commercial operations along Paignton and Preston Sands from future flooding. The development may have a more demonstrable beneficial impact on neighbouring commercial operations where they may benefit from the additional footfall and tourism interest that the proposed public realm works and enhancements are likely to generate.

In terms of residential impact, the nearest adjacent properties on Marine Drive (B3201) are approximately 40 metres from the proposed development. An objector has raised concerns of the lack of consultation. The proposal has been before extensive public consultation prior to the submission of the planning application and the relevant public consultation processes regarding this application have been undertaken. The application has only received four letters of representation, no concerns were raised in relation to residential amenity. Given its siting, scale, and design, it is considered that the proposal would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, or access to natural light. Planning conditions are recommended to secure a Construction Method Statement and construction hours to protect surrounding occupiers and in the interests of highway safety. A planning condition has also be recommended for if any contamination is found during construction works.

In terms of amenity the proposed development would be acceptable and compliant with Policy DE3 of the Local Plan and the guidance contained within the NPPF.

#### **5. Highways Access and Highway Safety**

Paragraph 114 of the NPPF guides that in assessing specific applications for development it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National

Model Design Code and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major development, development proposals should ensure that there is a good standard of access for walking, cycling, public and private transport. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy PNP1(h) of the Neighbourhood Plan outlines that new development should aim to achieve where appropriate electric vehicle charging points and comprehensive direct networks for walking, cycling and public transport within and beyond the development.

The application site encompasses areas of beach, existing coastal defences, promenades and access points from Esplanade Road (B3201) and Marine Drive (B3201) respectively. Objectors have raised concerns regarding loss of vehicular access, loss of parking and the impact on traffic flow and safety.

#### Vehicular Access

The proposed development will alter the existing vehicular access to Paignton Sands. The current one-way Eastern Esplanade vehicular access from the two-way highway will remove the split that currently exists at the head of Paignton Pier. The proposal will remove the southern vehicular access to make a pedestrianised space except for timed serviced vehicles, therefore vehicles will only be able to travel north from Paignton Pier, which will retain 78no. echelon parking spaces, alongside 2no. disabled parking spaces adjacent to Paignton Pier. There will also be a loading bay along Pier Road to allow servicing for adjacent businesses. The proposal includes the provision of a new vehicular access adjacent to Vue Cinema that will include a new turning head to allow the short section of two-way road to be used for loading and 8no. disabled parking spaces. Beyond the new access, the southern section of carriageway will remain as one-way south-bound highway, with 49no. echelon parking spaces. It should be noted that the existing highway arrangements in front of Vue Cinema will remain largely unaffected by the proposal with motor vehicle users giving way to the new vehicular access and then being able to exit onto Esplanade Road as they are currently able to do so.

Event access from Pier Road will remain unchanged and the existing stone boulders will be relocated to prevent unauthorised access onto Paignton Green.

The Local Highway Authority has requested a Construction Traffic Management Plan, such has been recommended as a planning condition to protect local amenity and

highway safety during the construction phase of development. A further planning condition has been recommended to secure detailed drawings of the roads and footpaths to ensure the development is constructed to an appropriate standard, and in the interests of safety and to create a safe and attractive environment.

The proposed development does not propose any changes to the existing highway layout or parking arrangements along Marine Drive.

### Pedestrian Access

The proposal has incorporated British Accessibility Standards (BS 8300:2018) step-free access routes where possible, the proposed development includes 1:21 slopes to ensure the seafronts are accessible for all, and avoid obtrusive railings and barriers where possible. The access to the foreshore on both Paignton Sands and Preston Sands remains unchanged. With existing slipways, accessible ramps and seawall steps retained.

The application site includes sections of the South West Coast Path, such route remains unchanged across both Paignton Sands and Preston Sands.

Across Paignton Sands, pedestrian access steps and large seating terraces are integrated at frequent intervals. The proposal has ensured that 1:21 slopes have been provided to either end of the northern and southern defences to allow a continuous route to be created to the top of the embankments. The proposal also includes a 1:21 slope in the centre of the northern green defence to reduce the distance between access points.

The proposal includes new informal access routes across the central and northern greens to help increase connection with Esplanade Road and Paignton Town Centre beyond. The proposal will ensure that there will be a safe walking zone for all users at all times behind the coastal defence when flood gates are closed, to provide year-round access to Paignton seafront. The proposal includes a new zebra crossing to Pier Road to mitigate conflict here during busy periods and give priority to pedestrians.

The land between Vue Cinema and Pier Road on the seaward side, known as Eastern Esplanade is to be pedestrianised, this will involve the removal of 74no. parking spaces. The area is adjacent to the Geoplay Park which will provide level access for all between the landward and seaward uses of the seafront. The proposed flood gates have been sited at key pedestrian desire lines and existing pathways. The proposal includes a new landward footpath behind the flood defences to ensure year-round access to the protected kiosks and the new Geopark Café.

Along Preston Sands, the existing beach huts and adjacent promenade has been retained, ensuring level access remains unaffected. The proposal includes a new steps (2no.) to replace the existing plinth to improve accessibility throughout the year once the seaward beach huts have been removed, this also aligns with the applicant's responses received to the community engagement workshops. The proposed development includes 1:21 slopes to ensure access to the shelters, Sara's café, and northern green when arriving from Marine Parade. The proposed flood gates will allow level access through the flood defence wall. The existing promenade will be resurfaced with asphalt to provide a level surface for all to use safely.

## Cycle Access

The cyclist movement across Paignton and Preston Sands will remain unchanged. Cyclists are permitted to cycle the length of Paignton seafront and are prohibited along Preston seafront given the dedicated cycle lane adjacent to Preston Green.

Along Paignton Seafront, the proposed development retains contra-flow cycle lanes to the northern and southern sections of the carriageway where parking has been retained. Where the central section of Paignton seafront has been closed for pedestrianisation, there will be a segregated cycle lane as per guidance within LTN1/20 Cycle Infrastructure Design, due to the large number of pedestrians present. To ensure all can identify the segregation, cycleway demarcation kerbs are proposed, along with a surfacing change. To reduce the potential conflict between cyclists and pedestrians, zebra crossings have been sited to ensure cyclists give-way to pedestrians within this pedestrianised area.

Across Paignton seafront, the proposal includes 47no. cycle parking spaces, providing spaces both in-front and behind the coastal defence.

Along Preston Green, a new segregated cycle ramp is proposed in the northern corner to link with the existing cycle lane alongside Preston Green. The proposal includes additional bollards to the entrance of the promenade to indicate that cyclists are to use the proposed segregated cycle ramp rather than Preston promenade. Across Preston seafront, the proposal includes 10no. cycle parking spaces.

The adopted Torbay Local Cycling and Walking Infrastructure Plan (LCWIP) provides recommended improvements for the Hollicombe Park to Paignton Pier section of Paignton which the application site falls within. These recommendations include:

1. New minor kerb build out and realignment where existing shared use path meets Marine Parade to improve access and prevent parked vehicles obstructing the path.
2. Marine Parade (behind beach huts). On-road provision proposed due to very low traffic flows. Consider removing a small number of parking spaces, to allow for more comfortable passing places. Provision of signage and wayfinding to direct people cycling to use the on-road route rather than in front of the beach huts, which is likely to cause conflict with people walking and beach hut users.
3. Reconfigure junction of existing cycle path on Marine Drive to Marine Parade to maintain segregation and improve the directness and legibility of this small section of route. Also, provide clearer signage and cycle parking to enhance the attractiveness of this route.
4. Marine Drive. Widen footway on east side of Marine Drive. This would improve the quality of this key section of the South West Coast Path for people walking and create a more attractive walking link between Paignton and Preston promenades. Also consider 20mph zone to make roads safer and retain access for all. Potential conversion to one-way southbound traffic in order to create space for cycle path segregation could be a further option in the longer term which could be explored as an additional element subject to careful consideration of impacts on traffic flows and access.
5. Eastern Esplanade. The existing on-carriageway provision is broadly acceptable for people cycling due to the low traffic volumes, but could be improved with provision of a

fully segregated cycle route. Consider moving parking to the rear side of the promenade to improve safety. This would also improve the walking and cycling experience on the promenade by opening up sea views for more people.

Separate to this application, a number of these recommendations have been implemented, such as the inclusion of demarked parking spaces along Marine Drive which has reduced the level of parking; and the reduction of speed along Marine Drive has become 20mph from 30mph.

Parking

The proposed development would remove 74no. echelon parking spaces from Paignton seafront, as well as making other modifications to the parking provision. The proposed parking provision for Eastern Esplanade is set out in Table 1:

**Table 1 – Parking Modifications to Eastern Esplanade, Paignton**

| <b>Type</b>                 | <b>Current</b> | <b>Proposed</b> | <b>Net Change</b> |
|-----------------------------|----------------|-----------------|-------------------|
| Disabled Car Parking Spaces | 2              | 10              | +8                |
| Standard Car Parking Spaces | 207            | 125             | -82               |
| <b>Total</b>                | <b>209</b>     | <b>135</b>      | <b>-74</b>        |
| Loading Bays                | 2              | 3               | +1                |
| Motorcycle Parking Spaces   | 3              | 3               | 0                 |

The Local Highway Authority have confirmed that the loss of parking is considered to be acceptable given that the application site is in close proximity to Paignton Town Centre and Victoria Car Park (420 spaces) is less than 300 metres away. Paignton Railway Station, Steam Railway and bus station are also in close proximity. Furthermore, the loss of parking would enhance the public realm area particularly around the Geopark which would enhance pedestrian safety due to users spilling between the Geopark and beach. The existing parking provision along Paignton seafront is echelon, the proposed development retains the majority as such.

The proposal does not include electric vehicle charging points due to the parking provision being at risk of flooding it would be impractical to have such equipment in this area. The Council are currently reviewing electric vehicle charging facilities across Paignton.

The proposed development would provide 57no. cycle parking spaces to encourage sustainable travel, which is considered to be acceptable.

Active Travel

Active Travel England have been consulted on the application. Their initial consultation response raised concern regarding the potential for cyclist versus motor vehicle conflict given the parking arrangements and contra-flow cycle lane when considering the lack of physical

segregation. The applicant has confirmed that the existing layout has worked successfully without any recorded incidents since it was implemented. The applicant has considered the repositioning of the contra-flow cycle lane, however on the northside of Eastern Esplanade there is a low wall directly adjacent to where the cycleway would run that would require a safety barrier and on the southside of Eastern Esplanade the wall is higher which may result in clashes with handlebars as the width of the carriageway in this location only allows for a minimum width cycleway. The applicant has also considered if parking were to be moved to the opposite side of Eastern Esplanade, then there would need to be some form of barrier or bollard system to ensure vehicles do not reverse over or onto the pavement. An update will be provided to Members regarding the re-consultation with Active Travel England.

#### Extinguishing Public Highway

The proposal includes extinguishing the adopted public highway for the length of Eastern Esplanade Road and Pier Road. The applicant has confirmed that this extinguishment is at the request of the Local Highway Authority to enable the closure of Eastern Esplanade for either a severe weather event or planned event to be simplified and less timely to implement.

#### Waste

The applicant has submitted a Waste Management Plan to support the application, which provides information on the recycling and refuse storage, and how the proposal can be serviced during the construction and operational phases of the project. The applicant has confirmed that the collection of the public bin waste will continue to be serviced from Eastern Esplanade. The supporting Waste Management Plan sets out the private waste collection of the existing businesses across both seafronts.

#### Highways Summary

An update will be given to Members on the latest consultation response following a re-consultation. The proposed development, subject to the planning conditions recommended above, is considered to present a broadly acceptable scheme in terms of access and highway safety, in accordance with Policies DE3, TA1, TA2 and TA3 of the Local Plan and the guidance contained within the NPPF.

### **6. Landscaping**

Landscaping is a key component of placemaking. The importance of contextual and effective landscaping is highlighted within Chapter 12 of the NPPF. Paragraph 130 of the NPPF outlines that achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character. The NPPF also makes reference to the important contribution of trees to the character and quality of urban environments (aside benefits of adapting to climate change) and states that decisions should ensure that new streets are tree-lined, that other opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), and that existing trees are retained wherever possible.

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The policy also states that development proposals should seek to retain and protect existing



hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role. Policy PNP1(c) of the Neighbourhood Plan includes reference to development proposals retaining existing natural features that make the location distinctive and attractive.

The application site is a high frequency use public open space and multi-use recreational space. The application site does not include any statutory designations relating to trees. There are existing trees, which are high profile and in a prominent position, are located adjacent to the roadside boundary. The Council's Senior Tree Officer has confirmed that the existing trees are wind pruned and are unlikely to reach their potential due to the environmental conditions.

The proposed development has been supported by a Tree Report and involves the removal of 2no. trees (T001 & T007) which categorises the trees as low-quality. The Officer has confirmed that mitigation for the loss of trees can be compensated through soft landscaping works which includes the erection of new trees and palms to reflect the coastal location. The supporting information indicates that there will be tree protected to the retained trees and hedges. The Officer has recommended a pre-commencement planning condition regarding the installation of tree protective fencing, pre-commencement site meetings and work stage processes which will need to be followed correctly.

The proposed soft landscaping scheme seeks to provide 25no. new trees and 86no. multi-stem shrubs along the length of Paignton seafront. The proposal also includes over 1,000 square metres of coastal herbaceous planting. Species have been carefully selected to ensure their resilience to the harsh conditions found on the seafront, and to enhance the English Riviera character of Torbay. Planning conditions are recommended to secure soft and hard landscaping as detailed drawings have not been submitted with the application.

Subject to the recommended planning conditions, the proposal is considered to present a scheme that considered compliant with Policies DE1 and C4 of the Local Plan and Policy PNP1(c) of the Neighbourhood Plan and the guidance contained within the NPPF.

## **7. Ecology and Biodiversity**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plans states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy PNP1(c) of the Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal safeguard biodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites. Guidance within the NPPF provides similar guidance to the above and notably Paragraph 180 guides that when determining planning applications, local planning authorities should apply principles that include opportunities to improve biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity.

The application site is situated directly adjacent to the Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ), and is approximately 1km away from Roundham Head Site of Special Scientific Interest (SSSI). The application site is also within the Great Crested Newt consultation zone. The application is supported by an Interim Ecological Appraisal (Devon Wildlife Consultants, December 2023), an Ecological Appraisal (Devon Wildlife Consultants, May 2024), the Torbay Wildlife and Geology Trigger Table (October 2023), and the Biodiversity Metric 4.0 Calculation Tool.

The Ecological Appraisal states that the proposed development is unlikely to see any increase in recreational pressure as a result of the flood defence works. Devon County Council's Ecologist has agreed with this conclusion. The application does not require the provision of a statutory 10% biodiversity net gain, as the application was validated prior to February 2024. The proposed development does achieve a net gain and therefore the proposal is considered to be acceptable by Devon County Council's Ecologist.

Both the submitted Appraisal and Devon County Council's Ecologist consider that there is potential for nesting birds and accordingly a planning condition is recommended to ensure that such are protected during the nesting season. The submitted bat surveys confirm that there are no bat roosts present within the buildings of the application site and the Great Crested Newt surveys have confirmed that the waterbodies do not support such species. The Appraisal recommends a number of compensation and enhancement measures, as well as light spill control measures that are recommended as planning conditions.

The proposed development is located close to the Lyme Bay and Torbay SAC with designated features, Reefs, and Submerged or partially submerged sea caves. To assess whether the proposal was likely to have a significant effect on the European Site, an Appropriate Assessment was undertaken. A HRA has been undertaken in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). This has been approved by Natural England. In order to mitigate potential adverse effects and make the proposed development acceptable, the mitigation measures as detailed within the HRA must be conditioned. The mitigation measures are contained within the supporting Construction Environmental Management Plan (CEMP).

The proposed development is also located adjacent (with activities within) the Torbay MCZ with the following designated features.

- Intertidal coarse sediment
- Intertidal mixed sediments
- Intertidal mud
- Intertidal sand and muddy sand
- Intertidal underboulder communities
- Long snouted seahorse (*Hippocampus guttulatus*)
- Low energy intertidal rock
- Moderate energy intertidal rock
- Native oyster (*Ostrea edulis*)
- Peacock's tail (*Padina pavonica*)
- Peat and clay exposures
- Seagrass beds
- Subtidal coarse sediment

- Subtidal mud

A MCZ Assessment was undertaken. This has been approved by Natural England. In order to mitigate potential adverse effects and make the proposed development acceptable, the mitigation measures as detailed within the MCZ Assessment must be conditioned. The mitigation measures are contained within the supporting Construction Environmental Management Plan (CEMP).

A planning condition has also been recommended to obtain full details of any proposed external lighting to consider the impact of artificial light pollution on the marine environment, as well as ensuring the lighting does not unacceptably impact neighbouring occupiers and provides sufficient levels to prevent anti-social behaviour.

Subject to the recommended planning conditions, the proposed development is considered to accord with Policies SS8 and NC1 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan and the guidance contained within the NPPF.

## **8. Flood Risk**

Paragraph 165 of the NPPF confirms that where development is required in areas at risk of flooding, the development should be made safe for its lifetime without increasing flood risk elsewhere. Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy ER2 of the Local Plan confirms that Pollution Prevention Plans should be submitted where there is a significant risk of adverse effects on aquatic ecosystems. Policy PNP1(i) of the Neighbourhood Plan confirms that development proposals will be required to comply with all relevant drainage and flood risk policy.

The application site is located partially within areas of flood zone 2 (medium probability of flooding) and 3 (high probability of flooding) associated with both fluvial and tidal sources as defined by the Environment Agency. The application site is also within a critical drainage area as defined by the Environment Agency. The application is supported by a Site-Specific Flood Risk Assessment, a Coastal Vulnerability Assessment and a Pollution Prevention Plan.

The submitted Flood Risk Assessment (September 2023) outlines that within the reclaimed area of Paignton, the lowest ground level is approximately 2.3m AOD which is lower than the mean astronomical high tide level of 2.8m AOD. The existing coastal defenses are considered to be in “*fair*” condition and given their age are in “*slow*” deterioration. The proposed development is to have a design life of a minimum of 120 years. The purpose of the proposed development is to provide a 1 in 200 year protection to properties in Paignton and Preston.

Figure 1 - 0.5% Annual Exceedance Probability Extent in 2015

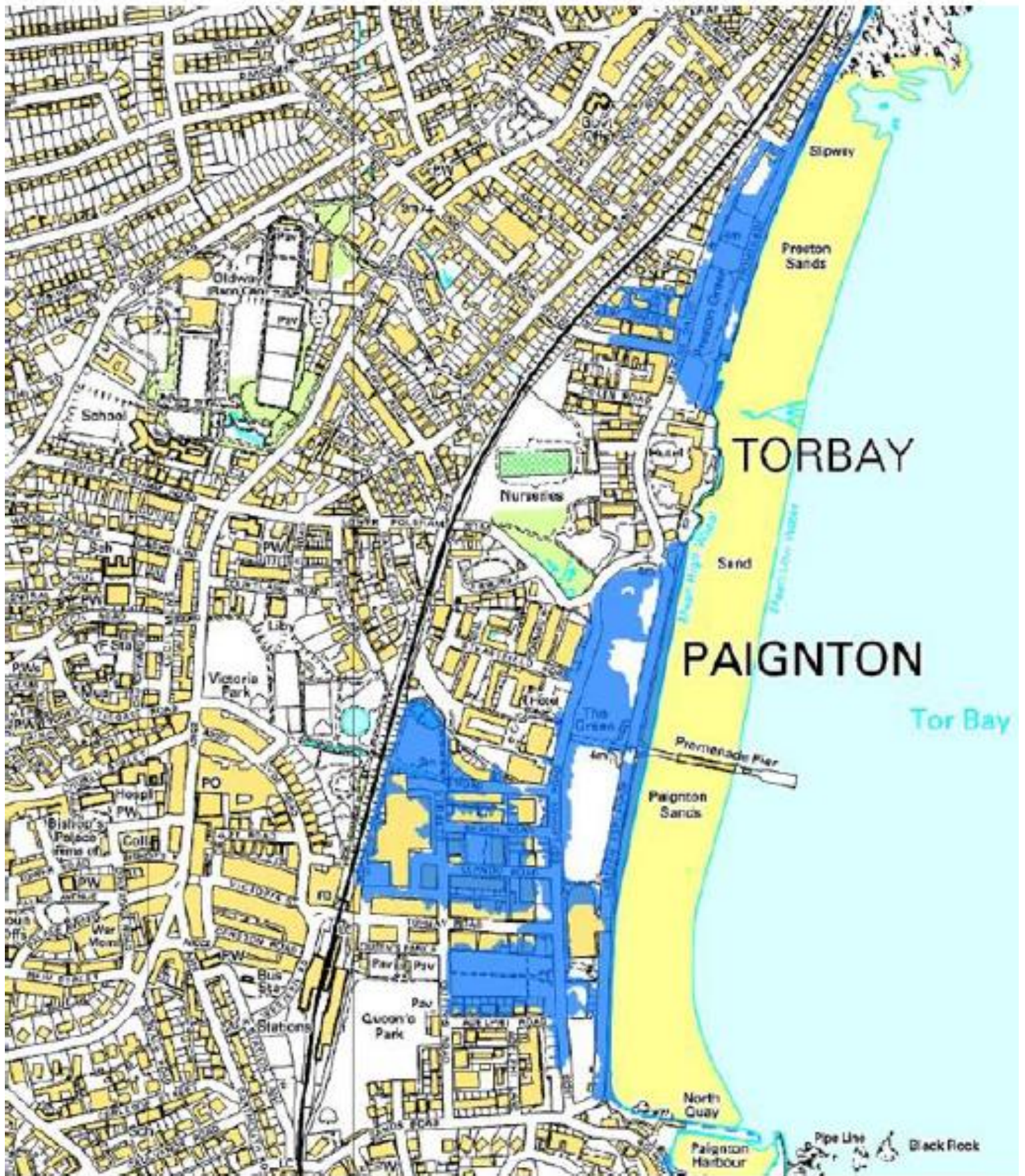


Figure 2 - 0.5% Annual Exceedance Probability Extent in 2065



The proposed coastal defenses, public realm elements and relocation of existing commercial businesses would pass the sequential test as the coastal defenses are specifically designed to provide coastal flood protection to Paignton and Preston and the vulnerability of the existing commercial businesses would not be worsened.

Planning Practice Guidance (Paragraph: 079, Reference ID: 7-079-20220825) confirms when the exception test should be applied. Paragraph 170 of the NPPF sets out the two tests a proposal must demonstrate to pass the exception test:

- a) *the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) *the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

The proposed development would provide wider sustainability benefits to the community, as it would provide coastal flood protection that would protect approximately 400 properties at risk of flooding. The proposed development would also be safe for its lifetime and take account of the vulnerability of its users, as it would provide a protected route for users at all times of the year. The proposal is to reduce coastal flood risk overall for Paignton and Preston. Paragraph 171 of the NPPF confirms that both elements of the exception test should be satisfied for development to be permitted. It is therefore considered that the proposed development would pass the exception test.

Paragraph 178 of the NPPF outlines that development in a Coastal Change Management Area will only be appropriate where it can demonstrate the following:

- a) *it will be safe over its planned lifetime and not have an unacceptable impact on coastal change;*
- b) *the character of the coast including designations is not compromised;*
- c) *the development provides wider sustainability benefits; and*
- d) *the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast.*

The application is within a Coastal Change Management Area as defined by Policy C3 of the Local Plan. The proposed development meets the criteria stated within Paragraph 178 of the NPPF.

The national Shoreline Management Plan (SMP) was adopted by Torbay Council in 2010 to cover up to 2105. The SMP has 4no. status codes:

*H = Hold the Line - maintain or upgrade the level of protection provided by the existing coastal defence.*

*A = Advance the Line - build new defences seaward of the existing defence line.*

*M = Managed Realignment - allow retreat of the shoreline inland, with management to control or limit that movement.*

*N = No Active Intervention - a decision not to invest in providing or maintaining defences.*

The SMP splits into time periods, for this section of coastline (Hollicombe Head to Roundham Head), the coastline is to "Hold the line". The SMP states "Hold the line" should: *"Where protection is currently provided by coastal defence structures or managed*

*beaches, and the intention is to retain a defence along approximately the current alignment. This will involve replacing defences when needed. Defence type, method and standard of protection may be modified over time*". The proposed development would align with the SMP as it would maintain and add to the coastal defences for the next 100 years to provide a level of protection to Paignton and Preston.

The Environment Agency were consulted on the application and have confirmed that they raise no objection to the proposed development, as the proposal will deliver a reduction in flood risk including that posed by climate change over the lifetime of the development and will comply with the overall requirements of the NPPF and associated Planning Practice Guidance. The Environment Agency's response welcomes the proposed pollution mitigation measures, however they have requested that the document indicates how run-off from the construction site would be managed and consideration given to the implications of storage (machinery and materials) when exposed to inclement weather, high winds and flooding. Planning conditions have been recommended to secure the supporting Pollution Prevention Plan, as well as seeking additional detail on the storage of machinery and materials during severe weather conditions.

The Council's Drainage Service Manager has been consulted on the application and has confirmed no objections to the proposal and that the proposed development will significantly reduce the risk of coastal flooding to Paignton and Preston. The proposal includes for a new access road which will increase the impermeable area of the site, to which the developer is proposing to discharge surface water run-off from the access road using soakaways. The Council's Drainage Service Manager has confirmed that such can be secured through planning condition and therefore a planning condition is recommended for such.

Subject to the aforementioned planning conditions, the proposal is considered to accord with Policies ER1 and ER2 of the Local Plan, Policy PNP1(i) of the Neighbourhood Plan and the guidance contained within the NPPF.

## **9. Low Carbon Development**

The NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Policy SS14 of the Local Plan seeks major development to minimise carbon emissions and the use of natural resources, including consideration of construction methods and materials. Policy ES1 of the Local Plan seeks all major development proposals to make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

The applicant has utilised the Environment Agency's Whole Life (Construction) Carbon Planning Tool which has provided a high level embodied carbon calculation for the scheme. The Council's Principal Climate Emergency Officer has confirmed that whilst the

use of the tool is welcomed, there is no comparison/benchmarking against similar infrastructure projects. The Officer recommends planning conditions for benchmarking to demonstrate if this scheme's predicted carbon emissions are broadly in line with similar flood related infrastructure projects; for whole carbon life cycle assessments, both pre- and post-construction phases to demonstrate how carbon emissions have been reduced; and detailed plans to be submitted outlining how embodied carbon emissions will be reduced, including a range of mitigation actions.

Policy PNP1(f) of the Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability:

- i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change;
- ii) the use of reclaimed materials and natural finishes;
- iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development;
- iv) on-site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity or a vista of landscape value, or a conservation area; and
- v) connecting cycleways and footpaths where development involves new road infrastructure.

The application has submitted the Council's Sustainability Checklist, however the responses are high-level. The Council's Principal Climate Emergency Officer has stated that further information is required and this should be obtained through planning conditions: showing detailed plans outlining how the sustainability approach will be adopted and influenced in the choice of materials and construction techniques; and how embodied carbon emissions will be greatly reduced outlining a range of potential mitigation actions that will be undertaken; and the use of a recognised sustainable construction assessment standards. Planning conditions are recommended to ensure that the proposed development is acceptable in terms of carbon emissions and sustainability.

The proposal is considered, subject to the aforementioned planning conditions, to comply with Policies SS14 and ES1 of the Local Plan, Policy PNP1(f) of the Neighbourhood Plan, and the guidance contained within the NPPF.

## **10. Designing Out Crime**

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy PNP1(g) of the Neighbourhood Plan outlines that all developments will be expected to show how crime and the fear of crime has been taken into account.

The application is supported by a Crime Prevention Statement. The Police Designing-Out Crime Officer has been consulted on the application and has provided a number of recommendations regarding bollards, CCTV, materials to prevent graffiti, and cycle stands. The Officer has commented that additional information is needed around CCTV due to the area suffering from anti-social behaviour and crime. A planning condition is recommended



to secure such. Subject to the aforementioned planning conditions, the proposal is considered to generally accord with Policy SS11 of the Local Plan and Policy PNP1(g) of the Neighbourhood Plan.

### **Sustainability**

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

#### **The Economic Role**

The proposed coastal defences would provide existing and future businesses with protection from coastal flooding for 100 years. There would be economic benefits to the construction industry from the proposed development. There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

#### **The Social Role**

The proposed development would provide BS 8300:2018 step-free access routes where possible and 1:21 slopes to ensure the seafronts are accessible for all. The proposal includes improved cycle routes to provide legibility and safety. The proposal includes elements of public realm to provide more opportunities for social interaction. The social impacts of the development weigh in favour of the development.

#### **The Environmental Role**

With respect to the environmental role of sustainable development the development is supported by drainage, landscaping and ecological and biodiversity net gain measures to mitigate impact, as detailed in this report. The proposed development will significantly reduce the risk of coastal flooding to Paignton and Preston. It is concluded that the environmental impacts of the development weigh positively within the planning balance.

### **Sustainability Conclusion**

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

### **Statement on Human Rights and Equalities Issues**

Human Rights Act - The development has been assessed against the provisions of the 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 development is not CIL liable.

#### **S106:**

Not applicable.

### **EIA/HRA**

#### **EIA:**

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

#### **HRA:**

Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites subject to the planning conditions contained within this report, in accordance with advice received by Natural England and Devon County Council acting as the Council's Ecological Advisor.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to protect and enhance a superb environment, as well as responding to climate change. The Development Plan recognises that climate change and the opportunities it presents for Torbay will have a very real impact on the environment, including flood defence works. The proposed development would provide critical infrastructure that would significantly reduce the risk of coastal flooding to Paignton and Preston. The impacts of the scheme are not unacceptable, subject to the planning conditions detailed below.

### **Conclusions and Reasons for Decision**

The proposed development is a crucial piece of infrastructure that will provide essential flood resilience for Paignton, there are no Development Plan policies indicating that the proposal is not acceptable in principle.

The impacts upon the character of the area, landscape, heritage assets, amenity of neighbouring residential occupiers, highways, ecology and flood risk have been assessed and are considered to be acceptable.

In-line with the above conclusions and the assessment within this report, the proposals are considered to be in principle accordance with the provisions of the Development Plan and to demonstrate that an acceptable scheme could be accommodated on the site. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable planning conditions.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

### **Officer Recommendation**

Approval: subject to;

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

### **Planning Conditions**

#### **1. Phasing Plan**

Prior to the commencement of the development hereby permitted a site wide phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved phasing plan. An up-to-date phasing plan and programme shall be maintained at all stages of the development hereby permitted. Development shall be carried out in strict accordance with the approved phasing plan. This condition does not prevent the construction of any phase being undertaken concurrently with any other phase.

Reason: To secure the programme for the delivery of key infrastructure and ensure that the Local Planning Authority is able to monitor the delivery of the development. To guide submission of details required by other conditions and to accord with planning guidance contained within the National Planning Policy Framework.

This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

#### **2. Construction Method Statement**

Prior to the commencement of development of a phase, including site preparation and vegetation clearance works, a site specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include, but not be limited to:

- a) A timetable of works.
- b) Procedures for maintaining good neighbour relations including complaint management.
- c) The parking of vehicles of site operatives and visitors.

- d) Loading and unloading of plant and materials.
- e) Storage of plant and materials used in constructing the development.
- f) Siting of temporary containers.
- g) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- h) Wheel washing facilities.
- i) The adoption and use of the best practicable means to reduce and control the emission of dust and other airborne pollutants and dirt during construction.
- j) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- k) The adoption and use of the best practicable means to reduce and control noise.
- l) 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.
- m) Construction working hours from 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 on Saturdays and at no time on Sundays or bank holidays. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- n) Details of how lighting will be controlled during the construction phase of development.

The approved Statement shall be adhered to throughout the construction period of the phase of the development that they relate to.

Reason: In the interests of highway safety with regards to construction traffic and the amenities of surrounding occupiers during the construction of the development further to Policies TA2 and DE3 of the Adopted Torbay Local Plan 2012-2030.

This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

### **3. Construction Traffic Management Plan**

Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Traffic Management Plan shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.

Reason: In the interests of local and highway amenity and residential amenity, and in accordance with Policies DE3 and TA2 of the Adopted Torbay Local Plan 2012-2030.

This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

### **4. Storage/Management of Machinery and Materials**

Notwithstanding the approved Pollution Prevention Plan, prior to the commencement of any development hereby approved, details of the implications of the site being exposed

to inclement weather, high winds and flooding relating to the storage and management of machinery and materials and including monitoring preventative mitigation and remediation measures shall be submitted to and approved in writing by the Local Planning Authority. The details shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

This pre-commencement condition is required to protect local amenity, highway safety and the marine environment prior to potentially impacting working commencing.

## **5. Tree Protection Plans**

Notwithstanding the submitted information, no development (including ground works) or vegetation clearance works shall take place in each approved phase of the development until a Tree Protection Plans for that phase has been submitted to and approved in writing by the Local Planning Authority. This information shall be prepared in accordance with BS 5837:2012 (or any superseding British Standard) and shall include details of tree protection fencing, which must be erected prior to the commencement of the development and retained until the completion of the development in the phase of the development that they relate to. No vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

The approved Tree Protection Plans shall be adhered to throughout the construction of the development.

Reason: To ensure that all existing trees and hedges on the site and on adjoining sites are adequately protected while development is in progress, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the National Planning Policy Framework.

This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

## **6. Pre-Commencement Arboricultural Site Meetings**

Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The outcome of the meeting shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.

Reason: To protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Adopted Torbay Local Plan 2012-2030.

These works are required prior to commencement in order to ensure the natural environment is protected during the development period.

## **7. Carbon Emissions**

Notwithstanding the submitted information, prior to the commencement of the development hereby approved, details of how the development will minimise carbon emissions shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, but not be limited to:

- Benchmarking against similar infrastructure schemes;
- Whole carbon life cycle assessments (WLCA) at the pre- and post-construction phases to demonstrate how carbon emissions have been reduced; and
- Detailed plans outlining how embodied carbon emissions will be reduced. Particular focus should be paid to the areas of the WLCA with the greatest embodied carbon emissions (Capital Carbon A1 – A5 and Refurbishment carbon (B5) and details should outline a range of mitigation actions that will be undertaken.

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

Reason: In the interests of reducing carbon emissions and promoting sustainable development, and in accordance with Policies SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

This pre-commencement condition is required to ensure carbon emissions are kept to a minimum.

## **8. Sustainability**

Notwithstanding the submitted information, prior to the commencement of the development hereby approved, details of the sustainability approach for the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, but not be limited to:

- How a sustainability approach will be adopted and influence the choices of materials and constructions techniques to help create a sustainable development and reduce environmental impacts including carbon emissions; and
- The use of a recognised sustainable construction assessment.

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

Reason: In the interests of promoting sustainable development, and in accordance with Policies SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

This pre-commencement condition is required to ensure a sustainable form of development.

## **9. Roads and Footpaths**

Notwithstanding the approved plans, no development shall take place on each approved phase of the development until the following details, relevant to the area within that phase, have been submitted to and approved in writing by the Local Planning Authority:

- a) A specification of the type of construction for the roads and footpaths, including all relevant horizontal cross-sections and longitudinal sections showing the existing and proposed levels, together with details of materials, sightlines and kerbs, street lighting and the method of disposing surface water;
- b) A programme for constructing the roads and footpaths; and,
- c) Details and specifications for the proposed works to parking spaces, including final finished levels and layout of spaces.

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

Reason: To ensure that the roads/footpaths are constructed to an appropriate standard in the interests of highway safety and to create a safe and attractive environment, to accord with Policies DE1 and TA2 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

## **10. Management Strategy**

Prior to the completion of the development hereby approved, the proposed management strategy for the future management and maintenance of the development including all areas of public realm, external space and soft landscaping within and around the development shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of any management company proposed and its terms of reference and shall be managed thereafter for the lifetime of the development in accordance with the approved Management Strategy.

Reason: To ensure that the public realm and landscaped areas are subject to a future management and maintenance agreement to ensure that they are adequately maintained, in the interests of visual amenity and in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## **11. External lighting**

Notwithstanding the approved plans, prior to the installation of any external lighting in each approved phase, full details including design, siting and type/amount of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and retained as such thereafter.

Reason: To safeguard the amenity of the locality and the marine environment, in the interests of residential amenity and biodiversity in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030.

## **12. Bird Nesting Season**

No vegetation clearance or demolition works shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the works will not disturb nesting birds and a record of this kept.

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

## **13. Biodiversity Compensation and Enhancement Measures**

Prior to the completion of the development hereby approved, the compensation and enhancement measures to enhance biodiversity in and around development, as detailed within the submitted and approved ecology report, in order to deliver a net gain for biodiversity, shall be implemented in full and maintained thereafter for the lifetime of the development.

Reason: To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and advice contained within the National Planning Policy Framework.

## **14. Street Furniture**

Notwithstanding the approved plans, no development above ground level shall take place in each approved phase until details (including siting/alignment, type and appearance including materials/finishes) of the proposed street furniture (including refuse bins, signage, seating, bollards, lockers, railings, handrails, bicycle stands, and other means of enclosure) in the area of that relevant phase have been submitted to and approved in writing by the Local Planning Authority. Prior to the completion of each approved phase, the street furniture shall be installed in accordance with the approved details and retained and managed for the lifetime of the development.

Reason: In the interests of design and in order to accord with Policy DE1 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

## **15. Coastal Defence Wall**

Notwithstanding the approved plans, prior to the installation of the coastal defence wall in each approved phase, details of the proposed cladding materials shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the finish, source(s), type and size of materials proposed to be used in the cladding.

A sample panel on each seafront shall be constructed on site for inspection and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.



The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interests of design, in order to accord with Policies DE1, ER1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1, PNP1(c), PNP4 and PNP15 of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

#### **16. Public Shelters**

Prior to the repair or refurbishment of the existing public shelters, a detailed method specification of the repair, refurbishment and/or repurposing of the shelters shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out fully in accordance with the approved method specification.

Reason: In the interests of design, visual amenity and to protect non-designated heritage assets, in order to accord with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1 and PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

#### **17. Method of Construction – Coastal Defence**

Prior to the construction of any coastal defence wall(s) within an approved phase, a detailed construction/method statement of how the coastal defence wall(s) shall be constructed shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out fully in accordance with the approved construction/method statements.

Reason: To reduce the risk of flooding and in the interests of design, in order to accord with Policies DE1 and ER1 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1(c), PNP4 and PNP15 of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

#### **18. Flood Gate Details**

Notwithstanding the approved plans, prior to the installation of the flood gates in each approved phase, details (including siting/alignment, type and appearance including materials/finishes and operation) of the proposed flood gates in the area of that relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The approved flood gate details shall be implemented prior to the completion of the approved phase and shall thereafter be retained and operated in strict with the approved details.

Reason: To reduce the risk of flooding and in the interests of design, in order to accord with Policies DE1, ER1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1, PNP1(c), PNP4 and PNP15 of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

#### **19. Hard Surfacing Materials**

Notwithstanding the approved plans, no development shall take place in each approved phase which involves the provision of promenade or other hard surfacing materials until

details of the materials to be used in the relevant area have been submitted for the prior written approval of the Local Planning Authority. Thereafter the works shall be fully implemented in accordance with the approved details prior to the completion of the development hereby approved. The details for approval shall include a detailed scheme of:

- a) Type/texture/colour finishes (including any samples as may be necessary) including at key public realm and historic areas; and
- b) The proposed pattern treatments to add local distinctiveness within the floorspace at key public realm areas.

Reason: In the interests of design and in order to accord with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030, Policies PNP1 and PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030, and guidance contained within the National Planning Policy Framework.

## **20. Contamination**

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure there is no risk of land contamination in accordance with Policy ER3 of the Adopted Torbay Local Plan and advice contained within the National Planning Policy Framework.

## **21. Soft Landscaping**

Notwithstanding the submitted plans, prior to the completion of each approved phase of the development hereby approved a soft landscape scheme shall be submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of that approved phase of the development. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of a similar size and the same species.

Reason: In interests of visual and residential amenity and in accordance with Policies C4, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## **22. Hard Landscaping**

Notwithstanding the submitted plans, prior to the completion of each approved phase of the development hereby approved, the hard landscaping shall be implemented in accordance with a scheme that has been first submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- a) Boundary treatments, including any walls, bunds, embankments and/or fences;
- b) Drainage details for any impermeable surfaces, including soakaway position, size, and specification; and
- c) A detailed programme of implementation.

All hard landscaping works shall be permanently retained thereafter in accordance with the approved details.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

### **23. CCTV**

Notwithstanding the approved plans, prior to the installation or relocation of the CCTV columns within each approved phase of the development hereby approved, full details of the CCTV provision for that phase shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include the siting and the technical specification details of the cameras, direction of view and their external appearance/colour. The approved measures shall be fully installed in accordance with the approved details prior to the completion of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1 (g) of the Paignton neighbourhood Plan.

### **24. Geopark Café**

Notwithstanding the approved plans, prior to the demolition of the existing Geopark Café suitably scaled detailed drawings of the proposed Geopark Café shall be submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, floorplans, elevations (including cladding materials), sections, finished floor levels, and ridge heights. The development shall be carried out only in accordance with the approved detailed drawings and shall be retained thereafter for the lifetime of the development.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

### **25. Geopark Café Removal of Existing Kiosk**

The Geopark Café's existing kiosk shall be permanently removed from the site prior to the new kiosk hereby approved being brought into use.

Reason: To ensure a satisfactory form of development in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

## **26. Geopark Café Use Class**

The Geopark Café development shall at all times be used for the purposes of the sale of food and drink to be consumed off the premises (take away sui generis use), and for no other use notwithstanding the provisions of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking said Orders.

Reason: To secure an appropriate form of development in accordance with Policies DE1, DE3, SS4 and TO1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(b) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## **27. Geopark Café Waste Storage**

Prior to the new Geopark Café's first use the waste storage facilities hereby approved shall have been implemented and made available for the use detailed. The facilities shall hence be maintained for such purposes at all times thereafter.

Reason: In the interests of amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and PNP1(e) of the Adopted Paignton Neighbourhood Plan 2012-2030.

## **28. Flood Risk Assessment**

Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 50% for climate change unless an alternative means of surface water drainage is submitted to and approved in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be occupied or brought into use until the approved drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(i) of the Adopted Paignton Neighbourhood Plan 2012-2030 and the guidance contained in the National Planning Policy Framework.

## **29. Pollution Prevention Plan**

The development shall proceed in full accordance with the submitted and approved Pollution Prevention Plan (ref: 3095 Pollution Prevention Plan). The approved Pollution Prevention Plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

### **30. Construction Environmental Management Plan**

The development shall proceed in full accordance with the submitted and approved Construction Environmental Management Plan (CEMP). The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

### **31. Waste Management Plan**

The development shall proceed in full accordance with the submitted and approved Waste Management Plan. The approved Waste Management Plan shall be adhered to and implemented throughout the construction and operational phases of the development, strictly in accordance with the approved details.

Reason: To secure a satisfactory form of waste management in accordance with Policy W1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

### **Informative(s)**

1. 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.
2. The Environmental Permitting (England and Wales) Regulations 2016 require a 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 culverted main river (16 metres if tidal)
  - on or within 16 metres of a sea defence

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

In this instance there will be a requirement to obtain flood risk activity environmental permits for works within 8m of the culverted 'Main' rivers that falls within the physical scope of the scheme.

### **Relevant Policies**

#### **Development Plan Relevant Policies**

## **Torbay Local Plan**

C2 – The Coastal Landscape

C3 – Coastal Change Management

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 - Flood Risk

ER2 - Water Management

ES1 – Energy

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in Favour of Sustainable Development

SS7 – Infrastructure, Phasing and Delivery

SS8 – Natural Environment

SS10 – Conservation and the Historic Environment

SS11 – Sustainable Communities

SS14 - Low Carbon Development and Adaption to Climate Change

SDP2 – Paignton Town Centre and Seafront

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

TO1 – Tourism, Events and Culture

## **Paignton Neighbourhood Plan**

PNP1 – Area Wide

PNP1(b) – Local Green Space

PNP1(c) – Design Principles

PNP1 (f) – Towards a Sustainable Low-Carbon, Energy-Efficient Economy

PNP1(g) – Designing Out Crime

PNP1(h) – Sustainable Transport

PNP1(i) - Surface Water

PNP4 – Seafront

PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area

PNP15 – Flood and Sea Defences