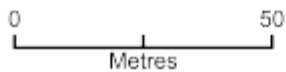


# TORBAY COUNCIL

Application Site Address	39 Sands Road Paignton TQ4 6EG
Proposal	Temporary supported accommodation for the YMCA (sui generis use)
Application Number	P/2024/0374
Applicant	City of Exeter YMCA
Agent	Mr Andrew Farrell
Date Application Valid	11/07/2024
Decision Due date	05/09/2024
Extension of Time Date	18/10/2024
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>Section 106 – A S106 to tie the use of 39 Sands Road to the use of 41 Sands Road given the use of 39 is reliant on the use of 41 proposed via application P/2024/0529.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by the Divisional Director – Planning,

	Housing & Climate Change
Planning Case Officer	Verity Clark

## **Location Plan**



## **Site Details**

The site is 39 Sands Road, Paignton which is a semi-detached property in use as 8 holiday apartments with owner's accommodation known as Holly-Lets Apartments. The self-contained accommodation is spread over four floors and is restricted to owner's accommodation associated with the holiday use and occupancy of the holiday units to between 15<sup>th</sup> March and 15<sup>th</sup> January only by a former planning application (P/1988/2336).

The south of the site benefits from a driveway for 7 cars with two separate vehicular access points onto Sands Road. Within the site are two separate patio garden areas.

The site is within a Community Investment Area and is within the Paignton Neighbourhood Plan Core Tourism Investment Area, but is outside of the Local Plan Core Tourism Investment Area allocation.

The site is located within Flood Zone 2 and 3 and a critical drainage area.

The Roundham and Paignton Harbour Conservation Area is located to the south of the site with the boundary starting in the middle of Sands Road.

Surrounding uses are a mix of residential and holiday accommodation.

### **Description of Development**

Full planning permission is sought for the change of use of the building from holiday apartments to temporary supported accommodation for the YMCA (sui generis use). The application has come forward in conjunction with application P/2024/0529 for the attached semi-detached property; 41 Sands Road.

The proposal will result in 5 self-contained units of accommodation which feature kitchens/living rooms, bathrooms and bedrooms (flats 1, 4, 7, 8 and 9). 3 cluster bedrooms are proposed (for use in conjunction with the proposed facilities at 41 Sands Road) which feature a bedroom and bathroom (flats 2, 5 and 6) alongside 1 nightstop/crashpad room (flat 3). The proposal also features a communal laundry room for all units and a cluster kitchen for flats 2, 5 and 6.

No external changes are proposed to the building however it has been confirmed that signage relating to the holiday use will be removed. The vehicular access will be unchanged and will continue to be via Sands Road.

The property would be run by YMCA Exeter, which is a registered provider, as affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. 9 single occupancy supported 'flats' are proposed where occupants will receive support relating to employment, meaningful occupation, training and education (EMOTE) and will engage in work placements, educational placements, volunteering or engagement within the service itself or social enterprise projects that the service develops. All young people will have named support workers, a personalised support plan, access to therapeutic services and counselling, regular groups, workshops and social, sporting and creative activities.

Young People will live in this 'Stage 2' move on accommodation whilst they engage in the EMOTE programme. Engagement in the programme is a requirement of being referred to the programme and a requirement within their excluded licence agreement for continued occupation. Young people will progress through the programme at differing speeds and in various routes. The general timeframe for Stage 2 accommodation is between 6 and 12 months, sometimes this extends to 18 months due to the need to access a particular type of move on accommodation, affordability or suitability of options for move on or the need to extend to avoid a person moving on prematurely before they are fully equipped to do so. For this reason, and as the availability of accommodation can differ between Local Authorities, the maximum length of stay is set at 3 years.

Onsite staffing will be shared between the application site and adjacent 41 Sands Road with staff present between 9am to 10pm after which staffing provision remains on call.

### **Relevant Planning Policy Context**

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

#### **Development Plan**

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

#### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation document
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Policy Guidance (PPG)
- Roundham and Paignton Harbour Conservation Area Appraisal
- Healthy Torbay SPD
- Torbay Council's Community and Corporate Plan 2023-2043
- Torbay Council's Corporate Parenting Strategy draft consultation document
- Torbay Council's Housing Strategy 2023 to 2030
- Homelessness and Rough Sleeping Strategy 2020-2025 draft consultation document
- English Riviera Destination Management Plan 2022-2030
- Published standing Advice

- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

## **Summary of Consultation Responses**

### **Drainage Engineer –**

The applicant has correctly identified that the proposed development lies within flood zone 3.

Where sites are identified within Flood Zone 3 the developer is expected to submit a site specific flood risk assessment. The flood risk assessment must demonstrate that the development will be safe from all sources of flooding without increasing flood risk elsewhere and where possible will reduce flood risk overall. Within the site specific flood risk assessment I would have expected to see the sources and predicted depth of flooding being identified, the proposed finished floor levels for the ground floor, details of safe access and egress routes, details about what to do in an emergency including safe refuges, details of flood mitigation measures being proposed including an emergency flood plan for all buildings on the site. In addition the flood risk assessment should identify that the owner/manager of the building will be signed up to the Environment Agency's coastal flood warning system.

The submitted flood risk assessment addresses the issues raised above.

It should be noted that existing flats are located on the ground floor and basement of this property and no new flats are being proposed on the ground floor or basement of the development. Following conversion, the existing flats must have access to upper floor levels within the building should a flood event occur.

Based on the above comments, providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, I have no objections on drainage grounds to planning permission being granted for this development.

### **Highways -**

The site is located on Sands Road, near the seafront. The main access to the site is through Sands Road, which has footways on both sides and provisions for on-street parking on southern side of the road. Sands Road is subject to a 30mph speed limit. Owned by a charity, it is understood the development is undertaken wholly or mainly for charitable purposes. It consists of 9 self-contained flats.

### **Site History**

It is understood there is no relevant recent planning history.

## Design Considerations

### Pedestrian and Cycle Access

The Design/Access and Supporting Statement does not specify details of the pedestrian and cycle access arrangements for the site. The Application Form indicates that no changes are proposed for pedestrian access to or from the public highway.

At present, Sands Road has footways on both sides, with a dropped kerb in front of the site. At the junction of Sands Road and Adelphi Lane, there are dropped kerbs and tactile paving to facilitate crossing Adelphi Lane.

An on-road cycle lane is present 100m east of the site along Eastern Esplanade which leads to Paignton Beach, starting at the B3201/Sands Road junction. The Highway Authority is satisfied with maintaining the current access arrangements for pedestrians on the basis the change in the number of trips is likely to be negligible.

### Cycle Parking

As per Appendix F of the adopted Torbay Local Plan, it is recommended that flats provide at minimum one cycle parking space per flat, and that these parking spaces are secure and covered.

The Application Form mentions that the site currently does not have existing cycle parking spaces. As part of this application, it is proposed to provide 9 cycle spaces within the site. This proposal aligns with local planning standards, and the Highway Authority is satisfied with the cycle parking provisions. It is required that the proposed cycle parking should be secure and covered.

The Application Form further mentions that the site currently has 2 part-time employees and proposes an increase to 3 full-time employees and 4 part-time employees. Appendix F of the adopted Torbay Local plan recommends 1 cycle parking space per two employees. It is recommended that the applicant provides cycle parking spaces for the employees.

### Public Transport Access

The Department for Transport's Inclusive Mobility guide (2021) recommends that bus stops in residential areas are located within a 400-metre walking distance.

The nearest bus stop to the site is the Sands Road bus stop, located only 20 meters west of the site on Sands Road. The bus stop has flag and pole arrangements.

The Highway Authority are satisfied the site is in a sustainable location.

### Vehicular Access

The Application Form indicates that vehicular access will remain the same as the existing arrangement. Currently, vehicles access the site from Sands Road, entering

the parking area via the dropped kerbs in front of the site. There are no proposed changes to this access arrangement.

#### Car Parking

According to Appendix F of the Local Plan, it is recommended to provide one parking space per flat, with 20% of the available spaces equipped with electric vehicle charging facilities. Additionally, visitor parking spaces are required.

The proposed layout (Drawing No. YPH SK03) indicates tarmac parking for 6 cars while the application form indicates 7 existing parking spaces, the applicant is required to clarify the existing car parking spaces.

With no changes to the current parking provisions at the site. This provision falls short of 2-3 parking spaces for the residents. The Highway Authority note that the site is in a sustainable location, with public transport access and public car parks / on-street parking available. It is also noted the proposed land use for charity/supported housing schemes. For these reasons, the Highway Authority are satisfied with the proposed parking provision.

#### Refuse / Servicing / Emergency Access

The Application Form mentions that the existing arrangements for waste storage and collection will be retained. Torbay Council's waste storage guidance recommends that communal stores must be located no further than 25 meters from the nearest point of access for the refuse collection vehicle.

It is understood refuse bins are located at the southwest corner of the site, close to Sands Road. The Highway Authority is satisfied with the drag distance.

No details have been provided of how the site will be accessed by emergency services. Based on the existing site arrangement, it appears that in the event of an emergency, a fire appliance can access the front of the property from Sands Road. The Planning Officer should consider whether a Fire Statement or Strategy is required for access to the rear of the building.

#### Conclusion

The Highway Authority does not wish to raise an objection to the proposals.

#### **Planning Policy -**

##### Response dated 27/08/2024:

Thank you for your consultation on the above application for change of use of 9 holiday flats from restricted holiday use to an unrestricted residential use. It was useful to meet on site and discuss the proposals with the applicants on 22 August. In my view, we need the points made and explanation about the YMCA's operation to be set out in writing to help the LPA understand the nature of the proposal. The

applicant has indicated that this application is separate from the adjoining 41 Sands Road. I will provide separate comments on no.41, but there is clearly a cumulative issue to consider.

In summary: Subject to the applicant being able to provide details of the proposal providing social rented accommodation to local Torbay young people, I would want to provide a very supportive policy comment. The use is somewhat unusual, and it may be appropriate to recommend approval based on a personal use by the YMCA (or similar Registered Provider).

The existing and proposed use class is a matter for you, having regard to Simon's Catterall's advice, and I appreciate that it has been considered at pre-application stage. However, for the reasons below, I think it would be best to treat it as a sui generis use. I agree that the existing use is class C3 but restricted to seasonal use by planning condition attached to P/1988/2336, which restricts the occupancy to between 15th March and 15th January. In terms of the proposed use, the applicant is the City of Exeter YMCA (which is a registered provider) but the use will be to provide affordable accommodation with a level of support/supervision, but not care, to young local people from Torbay. Because the use is not providing care, I agree that it is not Class C2. With respect, I don't think that the proposed use falls comfortably within Class C3(b): the use of a dwelling house by up to six people living together as a single household and receiving care. Based on 9 apartments there would be more than 6 people living in the apartments and not as a single household, and not receiving care. Class C remains complex and unclear, despite clarity being provided by the Rectory Homes case [2020] EWHC 2098 (Admin). For the reasons set out below, the building's current layout is unlikely to be acceptable for a straightforward and unrestricted Class C3 use. However, it appears that the YMCA intend to use the accommodation for specialist affordable housing for young people. The proposed use does not fit neatly within Class C2 or C3, and may be best treated as sui-generis.

I understand that a S73 application to remove the occupancy condition is not possible as it would lead to an untenable conflict with the purpose of the permission for P/1988/2336.

The proposal does raise a number of important policy and corporate considerations, including:

- Meeting Torbay's pressing need for housing, and particularly affordable housing; and the role that former holiday stock can play in meeting that need.
- Allowing the release of outdated holiday accommodation to other uses (residential) whilst ensuring that this does not undermine the tourism character of such areas.



- Regenerating coastal resorts and seeking to reduce the high levels of deprivation common to many such areas.
- Seeking to remove unsightly features that have historically been allowed to buildings during Torbay's resort heyday. This may be more of an issue within Conservation Areas.
- Seeking to reduce the risks and impacts of flooding and climate change. Paignton, like many seaside towns is vulnerable to flooding and has dated shared sewers and drainage infrastructure. There is a legacy of hard standings which increase run-off into the shared sewers.

The proposal has some similarities to 21 Sands Road (P2022/0972 and P/2023/0318), both of which applications were refused by Planning Committee. The LPA must be consistent in its decision making, but each application must be determined on its individual merits.

As noted, there is a sister application P/204/0529 on 41 Sands Road, which is the other side of the semi-detached Victorian villa that comprises 39-41 Sands Road. 39 and 41 combined are not especially large, comprising a single semi-detached Victorian pair of townhouses, with what appears to be a combined total of 9 flatlets and 9 HMO rooms (in no.41).

Turning to what I see as the main policy areas:

### **The provision of housing and affordable housing**

The application would create 9 small dwellings for permanent occupancy (rather than seasonal use). The units are still capable of being dwellings even if outside of use class C3 (as per the Rectory Homes case). Torbay's five year supply and Housing Delivery Test results mean that applications for the provision of housing must be determined on the basis of the Presumption in Favour of Sustainable Development. This is set out in both Policies SS3 and SS13 as well as paragraph 11 of the NPPF. The application provides 9 dwellings, which is likely to carry moderate weight. Torbay's wider constraints in terms of greenfield sites mean that it will be very difficult to meet needs other than by finding creative uses from brownfield opportunities, including the repurposing of former holiday accommodation.

The proposal would create 9 units of social rented housing restricted to local young people. We need clarification of this from the applicant, but I understand from Sam Irving that the council has supported the scheme and funding bid for it. The proposal is below the threshold for affordable housing in the Torbay Local Plan (policy H2) or the NPPF, but can still be provided as affordable housing so long as appropriately controlled. Torbay has a pressing need for affordable housing and its provision, especially for groups such as care leavers or other vulnerable people. This should be

given very substantial weight in the planning balance. I would draw attention to the changes in the draft (2024) NPPF which strengthen the Presumption in relation to affordable housing; and adds a reference to “looked after children” as an additional category of need at paragraph 63. The proposal will help deliver on Homes England Funding, which is a local finance consideration in the proposal’s favour. The delivery of much needed affordable homes for local young people is perhaps the most important policy consideration and should be given very substantial weight.

### **The Impact on Tourism (Core Tourism Investment Area) Policies**

I note that the English Riviera BID has been consulted but indicated that it does not comment on individual applications.

The proposal falls outside of the Core Tourism Investment Area (CTIA) in the Torbay Local Plan. Therefore Policy TO2 sets out a fairly flexible policy on allowing change of use away from tourism. This allows change out of holiday use, where the holiday character of the area and range of facilities are not undermined, and one or more of the following applies:

- the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities;
- it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes,
- or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TO1.4 is relevant in that it seeks to resist the provision of small apartments in tourism areas.

The property is within the Core Tourism Investment Area in the Paignton Neighbourhood Plan, which more extensive than the Local Plan CTIA, and Policy PNP14 applies. PNP14a) resists HMOs. PNP14b) indicates that “there will be flexibility to allow change of use where from holiday accommodation where it can be evidenced there is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function” PNP14c) seeks the removal of unsightly features etc.

The proposal does not appear to be supported by evidence that there is “no reasonable prospect of tourism use” or that the proposed use would “support and not detract from the area’s function”. As such there is conflict with Policy PNP14, and potentially TO2 unless supported by further information. It would be useful if the applicants provided comments on this point. However, the development plan must

be treated as being out of date and imposing a “no reasonable prospects” policy with full force would run counter to the intentions of the Presumption in Favour of Sustainable Development. This is especially the case where the council is relying on brownfield options to meet a significant amount of its housing need.

It was useful to inspect the apartments as currently laid out as Holly-Lets. 39 Sands Road is very well located for Tourism, within easy walk of the Beach, Paignton Harbour and a range of other attractions. Despite the excellent location, the apartments are very small, and probably offer a level of tourism accommodation that was acceptable in the in the 1980s, but fall short of today’s standards. The late 1980s was a time before the extent of the decline in seaside resorts was fully appreciated (although the peak in tourism was in the mid-1970s). The creation/extension of units for holiday use that were not suitable for permanent occupation was common. The size of some of the apartments is more consistent with a hotel room (and I note that the Flood risk assessment refers to the use as Class C1). Online reviews on Trip Advisor appear to indicate that the property has been used as holiday accommodation by “Holly-Lets”. But there are no additional facilities on-site. The council would no longer impose a condition requiring the property to be vacant between 16th January and 15th March, although such conditions were common in the 1980s. The condition would permit 10 month residential occupancy rather than restrict the use to tourism; but prevent any occupation, including by tourists, during the February Half Term. This again reflects the outmoded nature of the operation.

The English Riviera Destination Management Plan seeks a reduction in the stock of redundant accommodation, although it sets no specific target for holiday apartments. However, the clear direction of the Local Plan and Destination Management Plan is to improve overall quality whilst allowing a managed decline in numbers. There has been significant recent expansion in modern purpose built accommodation close to the application site. This includes the 121 room Ibis Styles, and 161 bedroom Mercure on the Esplanade, as well as proposed refurbishment of The Redcliff Hotel and construction of the a hotel at Livermead. These mean that there is a good supply of modern purpose-built accommodation coming on stream; much of it in even better holiday locations than 39 Sands Road, and which offer more modern accommodation and better facilities.

On that basis the loss of the holiday apartments would not detract from the range of facilities available in Torbay. It appears very unlikely to me that there would be an in-principle objection to the loss of tourism use of 39 Sands Road. The relevant issue is likely to be the suitability of the small flatlets for residential use, and ensuring that the proposed use is compatible with the tourism nature of the area.

**Indices of Deprivation, Community Investment Area and concerns about potential disturbance.**

The above indicates that from a policy point of view the principle of residential use is likely to be acceptable. Although as an unrestricted application, the accommodation would need to be reconfigured to bring it within the space standards set out in Policy DE3. I note that there are objections based on the suitability of the use within a tourism location. 39 Sands Road falls within the top 10% deprived “local neighbourhoods” (lower super output area) in England in both the 2015 and 2019 indices. This is part of a wider deprivation issue in Torbay, arising principally from poor employment opportunities and low-income levels. However, the site is located within the top 10% most deprived Lower Super Output Areas in England for crime (risk of material and personal victimisation at a local level). As such Policy SS11 of the Local Plan is relevant.

Details of management arrangements, and the nature of the operation and client groups are important to consideration of this matter. From our on-site discussion, which needs confirmation by the applicant, I understand that the flatlets will be occupied by local young people on a fairly temporary basis, with a level of supervision by YMCA staff. Although 24/7 onsite staff is not proposed, the premises will be monitored by CCTV and residents would have access to support at all times.

As such the proposal would meet many of the criteria in Policy SS11: Particularly SS11.2 “Help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay” and SS11.4 “Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities”. The applicants have argued that their operation in Sidwell Street, Exeter has helped reduce and prevent crime and fear of crime (SS11.5). The operation would provide support into local employment and training, in accordance with SS11.11 and provide people with access to local services in a highly sustainable location (SS11.12). The applicant has indicated that they would look to agree local training arrangements with the nearby hotels, which would be supported by Policy SC3 of the Local Plan.

There could be concerns about the impact of an unregulated residential occupancy, particularly given the size of the units. On that basis it may be appropriate to seek a personal consent or tie occupancy to a Registered Provider. So long as the applicant is able to provide written details of their operation, the use is likely to have a very positive impact on the Community Investment Area and provide a compatible use to the main tourism area.

### **Living Conditions for Residents, Flooding and Built Environment Improvements**

The apartments are very small, some appear to be less than 20 sq. m. There are no proposed communal facilities, and limited outdoor amenity space, although this may be less of a problem due to the proximity of the beach and Paignton Green. However, the small size of the apartments would raise conflicts with Policies DE3

and SS11 of the Local Plan if the application were for an unfettered Class C3 use. (Which could hypothetically be lawfully occupied by up to 54 (9 x 6 people). There is a contradiction in saying that the accommodation is below the standard expected by the modern tourist, but acceptable as a permanent residence. The basement flat has limited light from 2 windows, although its living conditions on the ground appear less confined than they may appear on plan.

The creation of some form of communal area would be welcome. If it is not proposed, I think we need some form of explanation from the applicant about how residents' amenity will be managed. I have fewer concerns about residents' amenity based on the YMCA model of the units providing relatively short-term accommodation that young people will move on from. I also note that the proposal will achieve the refurbishment and modernisation of the accommodation, which will also enhance the living conditions.

### **Flood Risk and building improvements**

The area is within flood zone 3 and contains an existing basement flat. Policies ER1 of the Local Plan and PNP15 plus PNP13c) of the Neighbourhood Plan are relevant, but consideration hinges on specialist Engineering advice. The application is supported by a Flood Risk Assessment by AWP, which does not apply a sequential or exceptions test, as the proposal does not move the property to a higher flood risk category. I note that Dave Stewart has provided specialist advice on flooding and drainage (dated 12 August 2024) and has indicated that he has no objection provided that floor resilience measures, including access to upper floor levels are provided.

39 Sands Road is not within a conservation area, although Roundham and Paignton Harbour is located on the south side of Sands Road. Both Policies PNP14 and TO2 seek the removal of unsightly features. The most obtrusive feature of the building appears to be the hard surfacing of the property frontage for car parking. Removing surface water from shared sewers is likely to be critical to wider water management in Paignton. Removal of some of the extensive hard standing and reinstatement of some soft landscaping features/sustainable drainage features would improve the character and appearance of the area reduce run-off into Torbay's shared sewers (both of which are NPPF "footnote 7 matters"). Parking requirements are a matter for Highways, but there is a case to accept a reduction in parking numbers given the very specific nature of the use and the highly sustainable location of the application site with level access to a range of facilities including the town centre, employment, bus and train stations.

As you are aware, the site is within the 8km zone for recreational effects on the Berry Head SAC. However, the proposal is unlikely to increase impact on the grassland from the existing holiday use.

## **Policy conclusions**

The proposal does raise wider policy issues. As noted above we do need confirmation from the applicant about the nature of the use, and it may be appropriate to provide a personal consent tied to an agreed management/supervision regime. Subject to this being in place there is strong policy support for the application.

Response received 23/09/2024 following the submission of updated floor plans, a planning statement and Management Plan and the change of planning description to reflect the contents of these documents:

Thank you for your updated email of 20th September 2024 in relation to the applications P/2024/0374 39 Sands Road, Paignton and P/2024/0529 41 Sands Road, Paignton. I note that the applicant has now submitted a Management Plan and a planning statement. I have previously commented on these applications on 27th August. The crux of my comments were that the but the nature of the proposal did throw up policy issues in relation to tourism, management and the nature of the use. I will not revisit the policy assessment in my earlier comments, but noted that the introduction of an un-restricted HMO or unregulated very small flatlets would present a conflict with both the tourism policies (TO1 of the Local Plan, and PNP14 of the Paignton Neighbourhood Plan), as well as Policies SS11, DE3 and H4 of the Local Plan). However, I suggested that the use as described to us on our site visit was a sui generis operation to provide social rented supported accommodation for local young people, which would provide a significant social benefit.

It looks from the submitted City of Exeter Management Plan that no's 39 and 41 would be operated as an interconnected use. But I assume that the two applications remain separate? 41 would, strictly speaking be an HMO, although the term "supported accommodation" is also apposite. I note that the Management Plan refers to the residents having a local connection; this is likely to be important to the acceptability of the proposal and may need securing through condition or legal agreement.

I have read the Planning Statement by McMurdo Land and Planning. This focusses heavily on the Presumption in Favour of Sustainable Development. I agree that the Presumption applies to number 39. It is much more moot whether it applies to HMOs. The section of the PPG that the planning statement refers to relates to student accommodation (68-034-20190722). The council has not previously treated HMO rooms as individual dwellings with weight in the presumption. Whilst the "tilted balance" is likely to be applicable, I consider that there are other policy considerations that are more weighty in determining the current applications.

The Planning Statement does not really address the tourism issue in any detail. The Paignton Neighbourhood Plan remains part of the development plan and is the legal

starting point for determining planning applications, along with the Local Plan. For non-strategic matters such as the boundary of the CTIA, the Neighbourhood Plan carries more weight than the Local Plan (paragraph 30 of the NPPF). The PNP is more than 5 years old and therefore “out of date” especially in relation to housing supply matters. But it is a matter for the decision maker (acting rationally) as to how much weight should be given to out of date policies. In this context, it would be very helpful to have more details about the impact of the proposal on tourism.

I note that the applicant’s email has provided some details of falling profit and the general trend for falling demand of small guest houses. However, it also indicates a very seasonal operation of the guest house, and does not get into other matters such as additional facilities, size of the shower ensembles, unproductive floor areas, running costs etc. Nor does it assess the impact on the new hotels on The Esplanade on bookings etc. This falls somewhat short of demonstrating that there is “no reasonable prospect” of tourism use required by Policy PNP14(b). 39 and 41 Sands Road are located close to the seafront and a range of facilities. Notwithstanding this, the Destination Management Plan has identified an oversupply of small guest houses, and a need to re-purpose holiday accommodation. I have covered this in more detail in my previous emails and consider that there would not be a policy objection to the loss of tourism. But the matter is finely balanced, and an element of tension with Policy PNP14 does exist, based on the evidence currently provided.

In my assessment the provision of socially rented supported accommodation for local young people is the most significant benefit from the scheme. The need for such accommodation is identified in the Corporate and Community Plan. Securing government funding for the scheme is a local finance consideration. I agree with the Planning Statement that this should carry a great deal of weight in the planning balance (irrespective of whether it’s tilted or not). I did not see a reference to local training agreements with local employers (apologies if I missed it), but if provided this would also provide an additional benefit and counter any loss of employment issues.

I appreciate that the application does raise difficult policy matters. An unregulated HMO use would create “significant and demonstrable” policy conflicts. However, the precise nature of the proposal would have substantial public benefits including the provision of much needed affordable accommodation to assist young people. On that basis I would wish to support it from a policy perspective. The use will need to be conditioned (or subject to a S106 Agreement) covering the operation of the use as supported accommodation for young people by the YMCA in accordance with a Management Plan. It may be appropriate to grant a personal consent: Whilst another organisation may be able to run a facility along similar lines and therefore be acceptable; there are very specific management and support policies employed by the YMCA that are necessary to make the use acceptable in planning terms. The LPA would need to consider a different user on their own merits. This may also

address the interconnectedness of the proposed uses of numbers 39 and 41 (i.e. it would be necessary for them to have the same operator).

Flooding issues are dealt with in my previous emails, and I note that Dave Stewart has not raised an objection. However, if approved a scheme of flood resilience and safe escape measures will need to be provided. I would welcome the addition of sustainable drainage as an element of this.

I hope that this is of assistance. The applications do raise some complex policy issues, particularly balancing the social benefits of supported social homes for young people with the tourism impact. I would wish to support the proposal because of its significant social benefit and the support it draw from the council's corporate policies.

Response received 25/09/2024:

Further to our discussion about the additional text in the draft NPPF on affordable housing. In my view the draft NPPF carries only limited weight at present. The provision of affordable housing already carries very significant weight in the planning balance.

Torbay Council's Community and Corporate Plan 2023-43 Community and Corporate Plan - Torbay Council describes itself as "The golden thread" running through all the council's plans, policies, and operations. The Corporate and Community Plan makes several specific references to meeting the needs of children and young people. The second "Community and people" priority (p6) is "To keep children safe in their communities and provide safe environments for our young people to thrive in". The Plan also undertakes that all residents are supported to live independent, healthy, active lives and that young people in receipt of services from children's services are prepared for adulthood. The Council's Corporate Parenting Strategy Corporate Parenting Strategy - for consultation (undated) notes the council's ongoing support for care experienced young people up to the age of 25. Priority 5 of the strategy is to support children and care experienced young people to develop into independent, confident and responsible adults.

The Housing Strategy Housing Strategy 2023 to 2030 - Torbay Council notes that Torbay has five times the national average of children and young people in care or care experienced, with a 42% increase since 2011. It states that: "*There is also an urgent need to create housing stock that provides independent living and move-on accommodation options for our care experienced young people*". It undertakes work proactively and in partnership with partners such as Homes England and Registered Providers (etc.). It seeks to maximise opportunities to deliver affordable homes and to provide more homes to improve the outcomes for our care experienced leavers.



These corporate strategies are a material consideration and should be afforded significant weight as statements of the Council's corporate priorities. These informed my overall policy conclusion that the provision of supported social housing to young local people is the most important policy consideration in relation to the two Sands Road applications.

**Divisional Director Community and Customer Services -**

Information has also been provided as an evidential document outlining the need in Torbay and reasons for youth homelessness.

The provision will assist in delivering a key element of the Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential to enable a working pathway were those young people that find themselves at point of homeless are prevented from doing so, and or are moved out of the Council emergency temporary accommodation. The public consultation feedback undertaken in August 2024, on the draft strategy also clearly feedback the impact that rough sleeping and homelessness has upon our wider communities.

The need in Torbay cannot be disputed, as the evidence from national data available for 2022/23 shows that Torbay continues to see a high proportion of households per thousand assessed as homeless, compared to the national average, with 15% of presentations being between 18 and 24 years old. Also, the grant funding by which this accommodation would be provided, is through a government initiative called SHAP (Single Homeless Accommodation Program). This grant program was by invite only around specific cohorts, one of which was homelessness related to young people. Therefore, the need and significance being recognised by Central Government. The conditions of the grant also came with funding to provide support at the accommodation.

Placements at the accommodation would be undertaken in partnership with the Council enabling full control over allocations with restrictions for local residents. I would also request that a Management Plan also be placed within any permissions providing detailed information on how the properties will be managed and hours of staff of site.

YMCA, are a recognised trusted national provider of accommodation and support for young people. This would also provide an initial footprint for wider working to address accommodation for young members of our communities in Torbay.

**Police Designing Out Crime Officer -**

From a designing out crime, fear of crime and anti-social behaviour perspective please find my advice and recommendations below.

It is recommended that all doors leading to the private flats should meet the requirements of PAS: 24 2022. Where doors are not being replaced the locks should be replaced and upgraded if they do not meet the requirements of PAS:24.

Likewise any external doors providing access into the building must also meet the minimum security standards of PAS:24 2022, It is recommended that the door is fit for purpose under BS 6375. The door should be fitted with a self-closing and locking mechanism to prevent the door from being inadvertently left open.

All ground floor and easily accessible windows must also meet the requirements of PAS 24. Where these do not it is recommended that they are placed with products which are tested and certificated to PAS:24:2022. They should also be fitted with window restrictors to prevent reach in burglaries where the offender reaches through an open window and steals anything within reach.

An access control system would also be recommended to be installed that can grant access to required areas when the valid card or key fob is presented to a proximity reader to the communal entrance door, it should have the ability to authorise and restrict access to certain times of the day of certain users. It must also be able to record the and identify the location, user, type and date of every system event which must be stored and available for up to 30 days. I would not support the use of any trades persons or time release mechanism being installed to the communal entrance doors due to the evidence of anti-social behaviour and unauthorised access associated with these.

Where appropriate mail delivery systems are not installed to buildings containing multiple dwellings this can lead to crime problems associated with delivery of posts or parcels. It is therefore recommended a mail delivery system is installed.

It would be beneficial to consider installing a CCTV system which is essential in the prevention and detection of crime, particularly when considering, burglary offences and disputes. A clear passport to compliance document should be in place prior to installation to ensure that the system and each camera have a clear purpose and that the needs of the user are met.

To search for a local accredited and approved CCTV installer please click on these links [www.nsi.org.uk](http://www.nsi.org.uk) or [www.ssaib.org](http://www.ssaib.org)

#### Key things to consider with CCTV

- Cameras, wiring, recording and monitoring equipment should be secured.
- CCTV equipment should meet the BS62676 standard.
- CCTV should be designed in so its compatible with lighting.

- Coverage should include access control areas, all external entry/exit points and fire exits.
- The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended for prosecution.
- CCTV systems must be registered with the Information Commissioners Office (IOC) and be compliant with guidelines in respect to General Data Protection Regulation (GDPR) and Human Rights legislation. Further information is available via [www.ico.gov.uk](http://www.ico.gov.uk)
- For guidance on the use of CCTV images as legal evidence see also BS 7958:2015 CCTV Management and Operation Code of Practice.

### **Summary of Representations**

At the time of writing a total of 11 letters of objection and 5 letters of support have been received in which the following matters were raised:

#### **Objections:**

- Impact on tourism and businesses
- Anti-social behaviour and impacts
- Planning history of 21 Sands Road
- Contrary to Local Plan and neighbourhood Plan policies
- Set a precedent
- Alternative sites should be considered
- Area of deprivation
- Unsuitable location
- Tourism area
- Loss of tourist identity will lead to decline
- Safety
- Noise
- No local community for people to integrate with
- Existing transient population due to HMO's

#### **Support:**

- Need to integrate mildly disadvantaged persons into local society
- Well placed for all amenities
- YMCA reputation
- Size of property
- Asset to local community
- Provision of facilities which are in short supply
- New hotels on esplanade providing rooms
- Affordable housing for young local individuals

- Suitable remaining tourist provision

### **Relevant Planning History**

P/1988/2336 Alterations To Provide Additional Holiday Flat, Extensions Providing Enlarged Holiday Flats And Owners Accommodation. Approved 08/02/1989

### **Planning Officer Assessment**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

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

#### **1. Principle of Development, Housing and Affordable Housing**

The proposal is for the change of use of the building from holiday apartments to temporary supported accommodation for the YMCA (sui generis use). The application has come forward in conjunction with application P/2024/0529 for the attached semi-detached property; 41 Sands Road.

The property would be run by YMCA Exeter, which is a registered provider, as affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. The Management Plan confirms the accommodation is intended for young people who are moving on from Torbay's higher supported accommodation, foster placements and supported living arrangements. 9 single occupancy supported 'flats' are proposed where occupants will receive support relating to employment, meaningful occupation, training and education (EMOTE) and will engage in work placements, educational placements, volunteering or engagement within the service itself or social enterprise projects that the service develops. All young people will have named support workers, a personalised support plan, access to therapeutic services and counselling, regular groups, workshops and social, sporting and creative activities.

Young People will live in this 'Stage 2' accommodation whilst they engage in the EMOTE programme. Engagement in the programme is a requirement of being referred to the programme and a requirement within their excluded licence agreement for continued occupation. Young people will progress through the programme at differing speeds and in various routes. The general timeframe for Stage 2 accommodation is between 6 and 12 months, sometimes this extends to 18 months due to the need to access a particular type of move on accommodation, affordability or suitability of options for move on or the need to extend to avoid a person moving on prematurely before they are fully equipped to do so. For this reason, and as the availability of accommodation can differ between Local Authorities the maximum length of stay is set by the YMCA at 3 years.

The onsite staff team will be shared between the property and attached 41 Sands Road and will consist of 1 housing manager, 3 EMOTE programme coordinators, 5 housing support coordinators, 1 facilities coordinator and 1 facilities officer. 39 and 41 Sands Road will be staffed by a professional staff team led by a full-time Housing Manager. The Support Team will be based onsite from 9am to 10pm to provide tailored advice, guidance and individual sessions to residents and swift intervention into any occupancy related issues, and then an on-call cover from 10pm through to 9am. For the initial year of the project, staff will operate a waking night service. This means staff will most likely make use of a vacant room and then later in the year to operate from a communal space (in any of the properties being purchased). It is anticipated that if during the first year the project tolerates really well overnight, staff can leave at the end of the evening shift at 10-11pm and go home, but remain on call. As the project becomes established and the self-regulation of the resident group is proven, they will usually be based within a 15-minute travel radius of site. One staff member remains on-call throughout the evening with another staff member being on "backup" for the on-call staff member able to be contacted as required. Alongside this, a senior manager (normally the Housing Manager is contactable to advise in emergencies and a duty Safeguarding Lead Officer is also on call at any time throughout the night). In addition, Facilities and Building maintenance staff are on duty throughout the day and availability for emergency repair response is in place out of hours.

The Management Plan confirms the general timeline of a day for residents as:

*Whilst the programme will develop based on the needs of the current cohort on the programme at the time, the general timeline of the day would look like, a morning motivational time leading into and through breakfast, travel to work and education placements, preparation and deployment at various social enterprise locations in Paignton. These activities will take up the majority of the morning and afternoon of each weekday. Responsive repairs and maintenance volunteering opportunities would take place on site during the*

*day. Some staff will remain based on site making arrangements for the service, organising new partnerships, recording and monitoring and other administrative duties.*

*In the late afternoon to evening there would be workshops either on site or as part of a community group off site and likely an evening social activity around food. At around 10pm, staff move from the project to a location nearby as a method of moving the houses into an end of day state and remain on call and able to monitor CCTV as required.*

*Weekends are less structured and more free time, however many weekends will include planned social activities, trips and occasional residential. The times are still part of the support framework and develop essential skills of independent living and personal growth alongside a bit of time away and some fun!*

The proposal will result in 5 self contained units of accommodation which feature kitchens/living rooms, bathrooms and bedrooms (flats 1, 4, 7, 8 and 9). 3 cluster bedrooms are proposed (for use in conjunction with the proposed facilities at 41 Sands Road) which feature a bedroom and bathroom (flats 2, 5 and 6) alongside 1 nightstop/crashpad room (flat 3). The proposal also features a communal laundry room for all units and a cluster kitchen for flats 2, 5 and 6.

The nightstop/crashpad room will be used to enable the YMCA to carry out a Nightstop assessment of a young person to effectively judge their ability to move directly to a Stage 2 service over the period of 1- 3 weeks rather than insist and then find a placement in a high support project. This is used only where there is a high likelihood and supporting evidence that the young person is ready for Stage 2 (i.e. they are already in paid work, they have lost accommodation due to Section 21 eviction, etc).

There is a pressing need for homes in Torbay. The Housing and Economic Needs Assessment (2022) indicates a comparable level of need and that there are around 1600 households on the waiting list for housing. At April 2024, the Council could only demonstrate a housing land supply of about 2.69 year's supply of deliverable housing sites. This is a significant shortfall.

The draft consultation NPPF, although of limited weight, places further emphasis on the need for housing, securing affordable homes and the need for different groups in the community including looked after children.

Policy SS13 supports residential development in accordance with the Local Plan and Policies of the NPPF. The site is not allocated in the Local Plan or Neighbourhood Plan for housing.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed given the proposal will result in the loss of holiday apartments and the formation of supported accommodation which includes 5 self contained units of accommodation, three cluster bedrooms and one nightstop/crashpad room. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by the National Planning Policy Framework (NPPF).

Paragraph 11 of the NPPF states:

*Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

*Footnote 8: This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a 5 year supply (or a 4 year supply), if applicable, as set out in paragraph 226 of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77 and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous 3 years.*

The formation of the proposed supported accommodation is considered to carry moderate weight given the number of units. Torbay's wider constraints in terms of greenfield sites mean that it will be very difficult to meet housing needs other than by finding creative uses from brownfield opportunities, including the repurposing of former holiday accommodation.

The proposal would create 9 units (of a mixture of types) of affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. The provision will assist in delivering a key element of the Council's Homelessness and Rough Sleeping Strategy. The delivery of move on accommodation is essential to enable a working pathway were those young people that find themselves at point of homeless are prevented from doing so, and or are moved out of the Council emergency temporary accommodation. The public consultation feedback undertaken in August 2024, on the draft strategy also clearly feedback the impact that rough sleeping and homelessness has upon our wider communities. The need in Torbay cannot be disputed, as the evidence from national data available for 2022/23 shows that Torbay continues to see a high proportion of households per thousand assessed as homeless, compared to the national average, with 15% of presentations being between 18 and 24 years old. Also, the grant funding by which this accommodation would be provided, is through a government initiative called SHAP (Single Homeless Accommodation Program). This grant program was by invite only around specific cohorts, one of which was homelessness related to young people. Therefore, the need and significance being recognised by Central Government. The conditions of the grant also came with funding to provide support at the accommodation. Placements at the accommodation would be undertaken in partnership with the Council enabling full control over allocations with restrictions for local residents. Torbay Council's Community and Corporate Plan 2023-2043 describes itself as "The golden thread" running through all the Council's plans, policies, and operations. The Corporate and Community Plan makes several specific references to meeting the needs of children and young people. The second "Community and people" priority (page 6) is "To keep children safe in their communities and provide safe environments for our young people to thrive in". The Plan also undertakes that all residents are supported to live independent, healthy, active lives and that young people in receipt of services from children's services are prepared for adulthood. The Council's Corporate Parenting Strategy notes the Council's ongoing support for care experienced young people up to the age of 25. Priority 5 of the strategy is to support children and care experienced young people to develop into independent, confident and responsible adults.

The Housing Strategy 2023 to 2030 notes that Torbay has five times the national average of children and young people in care or care experienced, with a 42% increase since 2011. It states that: "There is also an urgent need to create housing stock that provides independent living and move-on accommodation options for our care experienced young people". It undertakes work proactively and in partnership with partners such as Homes England and Registered Providers (etc.) and seeks to maximise opportunities to deliver affordable homes and to provide more homes to improve the outcomes for our care experienced leavers.



These corporate strategies are a material consideration and should be afforded significant weight as statements of the Council's corporate priorities.

Given Torbay has a pressing need for affordable housing and its provision, especially for groups such as care leavers or other vulnerable people including the 18 to 24 year old demographic which this form of supported accommodation will cover, is considered to result in very substantial weight in the planning balance.

Policy H6 supports measures to help people live independently and to live active lives within the community.

Policy SS11 aims to improve the sustainability of existing communities in Torbay, enhance the quality of life for residents and, especially, to close the gap between the most and least disadvantaged neighbourhoods.

The application site falls within the top 10% deprived "local neighbourhoods" (lower super output area) in England in both the 2015 and 2019 indices. This is part of a wider deprivation issue in Torbay, arising principally from poor employment opportunities and low-income levels. However, the site is located within the top 10% most deprived Lower Super Output Areas in England for crime (risk of material and personal victimisation at a local level). As such Policy SS11 of the Local Plan is relevant. Details of management arrangements, and the nature of the operation and client groups are important to consideration of this matter. The supported accommodation will be occupied by local young people aged 18 to 25 years old on a temporary basis generally between 6 to 12 months but with a maximum length of 3 years, with a level of supervision by YMCA staff. Although 24/7 onsite staff is not proposed, the premises will be monitored by CCTV and residents would have access to support at all times.

The proposal is considered to meet many of the criteria in Policy SS11: Particularly SS11.2 "*Help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay*" and SS11.4 "*Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities*". The Management Plan confirms:

*Cluster rooms with a shared kitchen are a method to both trial a young person's ability to live in a shared house (which would likely be the most cost-effective independent living option for them in the future) whilst also enabling young people to meet and match with possible future house/flat mates that they would feel comfortable to share with. The methods of living in a shared house, such as how bills are managed, how household essentials are purchased, expectations and personal standards on levels of cleaning, communication and socialisation are worked out in practice and can be taken forward into a longer-term shared housing situation.*

*More self-contained rooms/flatlets are also available as many young people are truly unable to share and socialise enough following trauma, mental health challenges or due to disability. In these situations, this type of accommodation gives a higher level of privacy without allowing so much self-contained freedom that would lead to isolation, loneliness and a lack of engagement which could put their progression at risk.*

*The staff housing management team assess and monitor these arrangements closely, listen to the feedback of the young people and communicate the decisions made around allocations clearly and fairly.*

The Management Plan provides certainty about the proposed use, client group and operation of the site and the mixture of 'flat' sizes and types provides a mixture of accommodation types to meet the needs of the future occupiers. This mixture of types and sizes, which in some instances fall below the size standards set out in the Nationally Described Space Standards, is designed as stage 2 move on accommodation which provides a stepping stone for residents through the 4 stages of the YMCA's pathway of supported accommodation. This move on accommodation is specifically designed as temporary accommodation which will directly help to close the gap between the most and least disadvantaged people and neighbourhoods in Torbay and promotes social inclusion and access to housing. The client group is local young people from Torbay. Given this results in a direct local benefit, this is recommended to be secured by condition.

The operation would provide support into local employment and training, in accordance with SS11.11 and provide people with access to local services in a highly sustainable location (SS11.12). The applicant has verbally indicated that they would look to agree local training arrangements with the nearby hotels, which would be supported by Policy SC3 of the Local Plan.

The Management Plan considers security and the local community stating that:

*CCTV cameras will be located on our site, both internal to the building and to externally to cover all aspects of the property. CCTV footage is encrypted and stored both locally for up to 365 days and on secure cloud servers for 30 days. The cameras operate a facial recognition system to assist us in making young people feel safe and for assisting the police with accurate and detailed footage of any incident that could occur.*

*Our aim is to assist the police and the local community to make these areas safer places to socialise and walk through at all times of the day and night, for both our own tenants and all those who live locally and use them.*

*The groups, activities and events that we will be delivering for those living at Sands Road and the future Stage 3 and 4 accommodation, will also be available to the local community. These will include wellbeing groups and activities, sporting activities, creative Arts and Music, IT groups and workshops, day trips and events. These will complement the many activities already happening in and around Paignton.*

*We have already, and will continue to engage well with local residents, community associations and business owners to see how we can contribute to the surrounding area.*

The applicants have also verbally confirmed that their operation in Sidwell Street, Exeter has helped reduce and prevent crime and fear of crime. The measures outlined are considered to help to reduce and prevent crime, whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict (SS11.5).

The proposed use, including the day to day operation of the site which will feature occupants undertaking offsite activities such as employment or education is considered to have a positive impact on the Community Investment Area with the use blending in with other residential uses. The proposal is therefore considered to be a compatible use to the main tourism area.

Overall, the proposal will result in affordable housing let at social rents and operated as supported accommodation which targets a key demographic with a high proportion of households per thousand assessed as homeless. The proposed use is considered to contribute to improving the sustainability of existing and new communities within Torbay, and especially the way in which it closes the gap between the most and least disadvantaged neighbourhoods and the use is considered compatible with the surrounding mixture of tourist accommodation and residential dwellings. As such the principle of the development is considered to accord with Policies SS13, SS11, H1 and H6 of the Torbay Local Plan.

## **2. Impact on Tourism**

Policies TO1 and TO2 of the Local Plan support the tourism sector. Policy TO1 supports the retention of tourist accommodation in sustainable locations with a focus on the Core Tourism Investment Areas (CTIAs). The site is not within the CTIA allocation of the Local Plan. Policy TO2 states that outside CTIAs the change of use of holiday accommodation will be allowed where the holiday character of the area and range of facilities and accommodation offered are not undermined and one or more of the following apply:

- The site is of limited significance in term of its holiday setting, views and facilities,
- It can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes OR
- The redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

The Policy goes on to say that proposals for small apartments or HMO's will not be permitted where they would conflict with the tourism character and offer of the Bay.

The proposal is not for an HMO, but for supported accommodation which includes self-contained units, cluster rooms and some communal facilities.

39 Sands Road is very well located for tourism, within easy walk of the beach, Paignton Harbour and a range of other attractions. Despite the excellent location, the existing holiday apartments are very small, and likely offer a level of tourism accommodation that was previously acceptable but fall short of today's standards. Online reviews on Trip Advisor appear to indicate that the property has been used as holiday accommodation know as "Holly-Lets" with the last review dated June 2022 giving a 1\* rating. There are no additional facilities on-site. The Council would no longer impose a condition requiring the property to be vacant between 16<sup>th</sup> January and 15<sup>th</sup> March, although such conditions were common in the 1980s. The condition would permit 10 month residential occupancy rather than restrict the use to tourism; but prevent any occupation, including by tourists, during the February Half Term. This again reflects the outmoded nature of the operation.

The supporting text for Policy TO2 advises that the 'Turning the Tide for Torbay' Tourism Strategy (2009)' indicates that, due to a change in the demand for tourism facilities, an oversupply of small and outmoded accommodation will be reduced. The English Riviera Destination Management Plan seeks a reduction in the stock of redundant accommodation, although it sets no specific target for holiday apartments. However, the clear direction of the Local Plan and Destination Management Plan is to improve overall quality whilst allowing a managed decline in numbers. There has been significant recent expansion in modern purpose built accommodation close to the application site. This includes the 119 room Ibis Styles, and 161 bedroom Mercure on the Esplanade, as well as proposed refurbishment of The Redcliff Hotel and construction of a hotel at Livermead. These mean that there is a good supply of modern purpose-built accommodation; much of it in even better holiday locations than 39 Sands Road, and which offer more modern accommodation and better facilities. The apartments are located within a tourist location which does not front the seafront, thereby likely providing a cheaper alternative holiday option. However, the small scale nature of a number of the rooms

with small bathroom provisions in all of the flats with no shared facilities or outside space results in a low quality form of accommodation.

The application submission confirms that 39 Sands Road was first marketed for sale on the 18<sup>th</sup> January 2023 until the YMCA offer was accepted in February 2024. There was a total of 11 viewings (including the YMCA's) and the majority of these were 'investors' outside of the area (mainly from London), looking to buy properties and convert them into Houses in Multiple Occupation, and a minority considering buying properties for use as holiday / family homes, but not continuing as holiday-lets or guest houses.

On that basis of the above, namely the quality of the accommodation, it is considered that the loss of the holiday apartments would not detract from the range of facilities available in Torbay. Sands Road features a mixture of residential and holiday accommodation. The change of use of the property to supported accommodation is not considered to undermine the holiday character of the area. The proposal is therefore considered to accord with point 1 of Policy TO2 of the Local Plan.

Point 2 of Policy TO2 of the Local Plan requires that one or more of the points noted apply. In this instance the site is located within a holiday setting and has a clear relationship with the existing tourist facilities in the area. The application has been supported by a written statement which tries to demonstrate that there is no reasonable prospect of the site being used for tourism or related purposes. Evidence includes the length of time the property was for sale and the following commentary:

*The properties comprising 39 and 41 Sands Road are of limited significance in terms of their holiday settings, views and facilities, and there are no reasonable, viable future prospects for these two properties continuing to be used as tourism accommodation, in the short or long-terms.*

*Sands Road is within fairly easy walking distance from the seafront, but it is somewhat removed from Paignton's key tourism areas. The properties are small, and whilst there are holiday-let and guest house type facilities in both, these facilities no longer meet the expectations of tourists and visitors to Paignton when compared to the far more popular and modern overnight, short and long-stay 'branded' hotels actually on the seafront, and which of course represent far better value for money.*

*In 2023 and since, 282 new bedroom spaces have opened at the new Ibis and Mercure Hotels on the seafront, plus the refurbishment of the Esplanade Hotel, and more recently with the Fragrance Group having purchased the Inn-on-the-Green for a further hotel development, all of which will no doubt adversely affect the future of the traditional guest house and B&B trade. It is*

*also understood that the Fragrance Group will reopen the Corbyn Head Hotel in Torquay with 152 bedroom spaces, as soon as Spring 2025.*

*The Destination Management Plan 2022 to 2030 in (6) above identifies the need to reduce the stock of serviced accommodation by 2% by 2027, with the need to reduce redundant stock. This indicates that older, formerly residential properties in use as small hotels and guest houses should be allowed to revert back to residential use, as holiday accommodation is replaced by modern purpose built hotels.*

*It has been said that the Sands Road area is of relatively limited significance in terms of the holiday setting, and a need has been identified to reduce the older style guest and visitor type accommodation offered, and particularly where new modern hotel accommodation in more central locations has recently been opened.*

Given the quality of the accommodation alongside the marketing length, it is reasonable to consider that it is unlikely that there is a reasonable prospect of the site being used for tourism in the future although the evidence and commentary provided is not considered to provide outright confirmation that there is no reasonable prospect of a continuing tourist use.

The last point within TO2(2) is that *the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.* The proposal is considered to meet this point. As noted earlier in this report, the proposal results in affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay. This targets a key demographic with a high proportion of households per thousand assessed as homeless. This, alongside the provision of additional housing when the tilted balance is engaged results in a strong benefit which is considered to outweigh the loss of the holiday accommodation. Given the proposal meets this point, the proposal is considered to accord with Policy TO2 of the Local Plan.

Although outside the Local Plan Core Tourism Investment Area allocation, the site is within the Paignton Neighbourhood Plan Core Tourism Investment Area as such Paignton Neighbourhood Plan Policy PNP14 is relevant. This policy states that:

- a) Houses in Multiple Occupation known as HMO's will not be supported within the Core Tourism Investment Area in accordance with Policy PNP1(f);
- b) Within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there

is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function, and;

c) Applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area. Evidence of neglect of properties will not be a reason supported for change of use of holiday accommodation that could otherwise be used for tourism purposes.

The proposed use would not be an HMO, the specific use would be for supported housing which includes a mixture of self-contained flats and cluster flats associated with the adjacent property. The proposal is therefore considered to pass criterion a) of Policy PNP14.

The application is supported by a Management Plan which provides an argument as to why the applicant considers that the development proposed would not detract from the areas function. Given the details provided, including how tenancies and anti-social behaviour will be managed, security and the local community, and the confirmation of the likely day to day operation of the site, it is considered that the change proposed would support and not detract from the area's function. As noted above, given the quality of the accommodation alongside the marketing length it is reasonable to consider that it is unlikely that there is a reasonable prospect of the site being used for tourism in the future although the evidence and commentary provided is not considered to provide outright confirmation that there is no reasonable prospect of a continuing tourist use. The proposal therefore fails to pass criterion b) of Policy PNP14 on this basis.

The proposal accords with criterion c) given the intention to remove signage relating to the tourism use. There are no unsightly features or restoration required to the building given its visual appearance from public vantage points.

Overall, the proposal is considered to accord with Policy TO2 of the Local Plan however the proposal is contrary to Policy PNP14 of the Neighbourhood Plan.

### **3. Design, Visual Impact and Heritage**

Paragraph 131 of the National Planning Policy Framework (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning

documents. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them.

Policy PNP1(c) of the Paignton Neighbourhood Plan requires development to be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy PNP14 of the Paignton Neighbourhood Plan states that applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area.

The site is located adjacent to the Roundham and Paignton Harbour Conservation Area. Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) sets out the general duty as respects Conservation Areas, which requires Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

The proposed plans detail no external changes to the building. The Management Plan confirms that the proposal includes the removal of hotel signage. A planning condition requiring the removal of the signage prior to the first occupation as supported accommodation is recommended to secure this change.

The proposal would not result in any unacceptable harm to the character or visual amenities of the locality and will preserve the character and appearance of the adjacent Conservation Area and is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, Policy PNP1(c) and Policy PNP14 of the Neighbourhood Plan, and the guidance contained in the NPPF.

#### **4. Impact on Residential Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity for future and neighbouring occupiers.

Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal protect residential amenity in terms of noise, air, or light pollution.

#### Future occupants

The proposal will result in 5 self-contained units of accommodation for single occupancy which feature kitchens/living rooms, bathrooms and bedrooms (flats 1, 4, 7, 8 and 9). 3 cluster bedrooms are proposed (for use in conjunction with the



proposed facilities at 41 Sands Road) which feature a bedroom and bathroom (flats 2, 5 and 6) alongside 1 nightstop/crashpad room (flat 3). The proposal also features a communal laundry room for all units and a cluster kitchen for flats 5 and 6.

The 'flats' include the following floor space:

- Flat 1 (self-contained): 27sqm
- Flat 2 (cluster bedroom): 19.37sqm
- Flat 3 (Nightstop/crashpad): 19.56sqm
- Flat 4 (self-contained): 26.93sqm
- Flat 5 (cluster bedroom): 19.43sqm
- Flat 6 (cluster bedroom): 16.06sqm
- Flat 7 (self-contained): 28.17sqm
- Flat 8 (self-contained): 45.44sqm
- Flat 9 (self-contained): 56.21sqm

All 'flats' will have access to the shared laundry at ground floor level and the cluster flats will have access to the shared kitchen within the building and the living facilities in the adjacent building; no.41. Each unit will be single occupancy resulting in a maximum occupancy of 9 individuals.

Each self-contained unit will have its own kitchen, living room, bedroom and bathroom facilities with some units featuring combination rooms. With regard to the floor areas of the self-contained units, each unit is for one person. Under the Nationally Described Space Standards the floor area should be 37sqm for a 1 bedroom flat however, the nature of this proposed use is different from fully independent living and the Management Plan provides further confirmation on the intended use:

*Whilst the planning applications for these properties are submitted separately due to their current status, the desire and management of the building will be that they operate as a single project. This will enable the more effective use of 41 Sands Road's communal spaces for the residents of 39 Sands Road.*

*Many of the group support work, workshops and activities will be based on site and so the utilisation of these spaces will enable us to work in a way that best suits the delivery of engagement work, which for example, often involves eating and socialising together.*

*There will still remain a sense of separation for the residents, as to which house they occupy and this will be particularly in relation to their own shared kitchens and separate laundry rooms for example.*

Although 3 of the self-contained units have smaller floor areas, these flats are considered to be appropriate for a temporary use for the intention of social rented

move on accommodation, when considering the management and occupational arrangements outlined in the Management Plan. The cluster rooms will feature a bedroom/living space and separate kitchen with access to communal living facilities in the adjacent building; no.41.

It is considered reasonable to suggest the addition of a planning condition requiring the maximum length of stay for all the 'flats' with the exclusion of flat 3, to a maximum length of 3 years given the accommodation is designed as temporary accommodation and would not be suitable for indefinite permanent occupation given the size of the accommodation and the management arrangements.

Given the need for access to the shared facilities, the application site and use of no.41 proposed via concurrent application P/2024/0529 are intrinsically linked. As such it is recommended that a s106 legal agreement is secured to link the two facilities at 39 and 41 Sands Road, as no.39 cannot operate independently with the level of communal facilities located solely in no.39.

Flat 3 is a nightstop/crashpad room which features one window with obscure glazing and views focused towards the adjacent building. This room will be used for a maximum of 3 weeks for assessment procedure. The room is not considered to be appropriate as a cluster bedroom given the limited outlook and therefore a condition is recommended to ensure the occupancy of the room by an individual for no longer than 3 weeks.

Each remaining unit will feature a good quality light and outlook and given the living arrangements the floor sizes are considered to be appropriate for this form of temporary supported living accommodation.

It is considered appropriate to secure the use via a personal consent to the YMCA given the management arrangements and future occupants detailed are considered to result in a unique situation which has been demonstrated as acceptable. A condition limiting the occupancy and use to 9 individuals within the supported living units is also recommended given the size of the units are only appropriate for single occupancy.

The site is within a highly sustainable location being within walking distance of the town centre, transport links, public gardens and the beach.

#### Neighbouring occupants

The proposal involves no alterations to the property other than the removal of signage.

As detailed earlier in the report, the Support Team will be based onsite from 9am to 10pm to provide tailored advice, guidance and individual sessions to residents and

swift intervention into any occupancy related issues, and then an on-call cover from 10pm through to 9am. For the initial year of the project, staff will operate a waking night service. This means staff will most likely make use of a vacant room and then later in the year to operate from a communal space (in any of the properties being purchased). It is anticipated that if during the first year the project tolerates really well overnight, staff can leave at the end of the evening shift at 10-11pm and go home, but remain on call. As the project becomes established and the self-regulation of the resident group is proven, they will usually be based within a 15-minute travel radius of site. One staff member remains on-call throughout the evening with another staff member being on “backup” for the on-call staff member able to be contacted as required. Alongside this, a senior manager (normally the Housing Manager is contactable to advise in emergencies and a duty Safeguarding Lead Officer is also on call at any time throughout the night).

The Police Designing Out Crime Officer has not raised an objection to the application but has provided suggestions to minimise risks. The Management Plan is considered to provide acceptable detail of the intended operation which will be secured by a planning condition. This includes details of how anti-social behaviour will be dealt with alongside tenancy support which will aim to avoid any disruption to those within the service and those living in and around the area. This is considered to satisfactorily address amenity concerns which have been raised relating to the proposed use.

Policy SS11 of the Local Plan states that development proposals will be assessed as to whether they can promote social inclusion and seek to eliminate exclusion based on access to housing, health, education, recreation and other facilities. The proposal would provide affordable housing let at social rents and operated as supported accommodation for young people aged between 18-25 with a direct connection locally to Torbay which is greatly required in Torbay and it is therefore considered that it would help to maintain a mixed and balanced community within the area and would provide a facility to those disadvantaged within Torbay.

Subject to the recommended conditions, the proposal is considered to be in accordance with Policies DE3 and SS11 of the Local Plan and PNP1(c) of the Paignton Neighbourhood Plan.

## **5. Access, Movement and Parking**

Policy TA3 and Appendix F of the Local Plan states that flats should be provided with 1 on-site parking spaces for motor vehicles, cycle storage, and provisions for the storage of refuse bins and recycling boxes.

The application is for the conversion of a holiday apartments to 9 supported living units containing a mixture of self-contained and cluster flats. There are seven existing car parking spaces on the site which are to be retained. These spaces are to

be unallocated. The applicant had advised that, in practise, future occupiers are unlikely to own cars.

The Council's Highway Engineer has noted that there are no changes to the current parking provisions at the site. This provision falls short of 2-3 parking spaces for the residents. The Highway Authority note that the site is in a sustainable location, with public transport access and public car parks / on-street parking available. It is also noted the proposed land use for charity/supported housing schemes. For these reasons, the Highway Authority are satisfied with the proposed parking provision.

Appendix F of the Torbay Local Plan expects storage space to be provided for at least 1 cycle per flat, and 1 space per two employees therefore, the proposed development should allow provision for the storage of 12 cycle spaces within the site. The Management Plan confirms the intention to provide a secure bike shelter with interior lighting and full CCTV coverage within the site with the capacity to store both staff and resident bikes. Residents are assisted with the provision of bike locks and other methods of keeping their bikes and belongings secure as part of encouraging sustainable transport. Details of the proposed covered and secure cycle storage can be secured by condition, and this is recommended.

Subject to conditions to secure cycle storage and to ensure that the car parking spaces are retained and kept available for use for parking purposes, the proposal is considered to be in accordance with Policies TA2, TA3 and Appendix F of the Torbay Local Plan and Policies PNP1 (d) and PNP1 (h) of the Paignton Neighbourhood Plan.

## **6. 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 PNP1 (c) of the Paignton Neighbourhood Plan encourages development proposals to retain existing natural features and features of biodiversity value on site, and to enhance biodiversity where possible.

The application is not liable for biodiversity net gain due to the de minimis exemption.

The application site is occupied and not in an area identified as likely to house protected species. The proposed development is for change of use and does not involve works to the roofs. The presence of protected species is unlikely. However, an informative advising a precautionary approach can be imposed on the planning decision.

The proposal is therefore considered to be in accordance with Policy NC1 and Policy PNP1 (c) of the Paignton Neighbourhood Plan.

## **7. Drainage and Flood Risk**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) requires developments to comply with all relevant drainage and flood risk policy.

The site is located within Flood zone 2 and 3 and a critical drainage area. The application has been supported by a site specific flood risk assessment.

The Council's Drainage Engineer has reviewed this document and has noted that existing flats are located on the ground floor and basement of this property and no new flats are being proposed on the ground floor or basement of the development. Following conversion, the existing flats must have access to upper floor levels within the building should a flood event occur. Providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, the proposal is acceptable and would accord with Policy ER1 of the Local Plan.

The proposed development would also not result in an increase in the impermeable area on the site.

The proposals are therefore not considered to present any material changes in terms of flood risk. A planning condition securing the flood mitigation measures identified within the site specific flood risk assessment and to ensure safe refuge for the basement and ground floor units is recommended in line with the recommendation of the Drainage Engineer.

The proposal is therefore deemed acceptable in terms of its impact on drainage and flood risk and is considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

## **8. Waste**

Policy W1 of the Torbay Local Plan requires as a minimum that all developments make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated by a development. PNP1(d) of the Paignton Neighbourhood Plan requires space to be provided for solid waste storage within the curtilage of a site.

The Management Plan confirms that "YMCA Exeter are committed to shaping environmentally conscious communities as detailed in our Environmental Policy and we ensure all of our tenants receive clear instructions and procedures to make recycling simple and their first choice. Tenants are responsible for taking out their own waste and YMCA staff will be responsible for placing the bins at the kerb side

on collection days.” The Council’s Highway Engineer has confirmed that it is understood that refuse bins are located at the southwest corner of the site, close to Sands Road and the Highway Authority is satisfied with the drag distance.

A planning condition securing adequate waste and recycling facilities is recommended.

The proposals therefore conform with the requirements of Policy W1 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

### **9. Designing Out Crime**

Policy SS11 of the Torbay Local Plan requires development to help reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict.

Policy PNP1(g) of the Paignton Neighbourhood Plan requires all developments to show how crime and fear of crime has been taken into account.

The Police Designing Out Crime Officer has raised no objections to the proposed development which includes the installation of CCTV at the premises.

A planning condition is recommended requiring that the principles and practices of secured by design will be followed. The proposals are considered to meet the requirements of Policy SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

### **10. Low Carbon Development**

Policy SS14 requires development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials.

Policy ES1 seeks to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited.

Policy PNP1(f) of the Paignton Neighbourhood Plan outlines that new development, where appropriate and subject to viability, should undertake sustainable construction and water management technologies.

The proposed conversion of the building will utilise the existing footprint and internal layout.

The proposed development is therefore considered to meet the requirements of Policies SS14 and ES1 of the Torbay Local Plan and PNP1(f) of the Paignton Neighbourhood Plan.

### **Sustainability**

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

#### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be some minor economic benefits to the construction industry from the proposed development. Once the units were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

The proposal would result in the loss of 8 holiday apartments and 1 owner's flat and it has not been demonstrated that there is no reasonable prospect of continuing use for tourism purposes.

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

#### **The Social Role**

The principal social benefit of the proposed development would be the provision of additional supported accommodation of an affordable nature which provides a specialist and vital service for local residents of Torbay within a key demographic at risk of homelessness. This would provide a clear social benefit which weighs very strongly in favour of the development.

#### **The Environmental role**

With respect to the environmental role of sustainable development, the elements that are considered to be relevant to the proposed development are impacts on the heritage, streetscape, ecology, biodiversity and surface and foul water drainage. These matters have been considered in detail above. The proposed development is in a sustainable location with a range of public transportation links. It is considered to be a low-impact. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

### **Human Rights and Equalities Issues Human Rights Act:**

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the

applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance. Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106 – A s106 is required to tie the use of 39 Sands Road to the use of 41 Sands Road given the use of 39 is reliant on the use proposed via concurrent application P/2024/0529.

CIL - Not applicable

Funding – the proposed use is subject to Homes England & Department of Levelling Up, Homes and Communities 'Single Homeless Accommodation Programme' (SHAP) Funding obtained by a partnership of Torbay Council and YMCA Exeter.

### **EIA/HRA EIA:**

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

### **BNG**

The application is not liable for Biodiversity Net Gain (BNG) due to the de minimis exemption.

### **Proactive Working**

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

### **Conclusions**

This report gives consideration to the key planning issues, the merits of the proposal and Development Plan policies.

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



Development Plans often contain policies that pull in different directions and it is sometimes difficult to come to a view whether a proposal is in accordance with the development plan when “taken as a whole”. Whilst the proposal is supported by policies in the Local Plan that seek to boost housing supply, affordable housing and sustainable communities, there are conflicts with the loss of tourism accommodation within a designated core tourism investment area. The proposal is therefore not in accordance with the Development Plan.

As noted above, the Council has less than 5 years housing land supply and on this basis the development plan must be “deemed” to be out of date. At 2.69 years supply, the shortfall is serious and must be given significant weight in the planning balance. However, the proposal is for only 9 units which include self-contained flats and cluster flats alongside a short period nightstop/crashpad unit, which reduces the weight that should be given to the proposal, and this weight is considered to be moderate. Out of date policies can still carry weight in the planning balance, but in practice attention shifts to other material considerations, especially the Presumption in Favour of Sustainable Development which is set out in paragraph 11(d) of the NPPF.

It must therefore be considered if any adverse impacts of approving the application would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Having regard to the above assessment of the proposed development, the proposal will result in the loss of tourist accommodation within a designated core tourism investment area. It has not been outright demonstrated that there is no reasonable prospect of continuing use for tourism purposes although a level of justification has been provided. However, the proposal results in housing development, when the Council cannot demonstrate a 5 year housing land supply and the proposed use of supported accommodation of an affordable nature which provides a specialist and vital service for local residents of Torbay within a key demographic at risk of homelessness provides a clear social benefit which weighs very strongly in favour of the development.

The development is acceptable in terms of all other material considerations.

The proposal is considered to be finely balanced, however it is considered that overall the benefits associated with the proposed development are considered to outweigh the loss of the tourist accommodation within the core tourism investment area. As such the proposal is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations. The Officer recommendation is therefore one of conditional approval.

## **Officer Recommendation**

Approval: Subject to;

- The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;
- The completion of a Section 106 Agreement to tie the use of 39 Sands Road to the use of 41 Sands Road given the use of 39 is reliant on the use proposed via application P/2024/0529.
- The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

## **Conditions:**

### **1. Removal of Signage**

A scheme for the removal of holiday signage within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development hereby approved.

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012-2030 and Policies PNP1(c) and PNP14 of the Paignton Neighbourhood Plan.

### **2. Cycle Storage Details**

Prior to the first occupation of the development hereby approved, details of cycle storage (secure and weatherproof) for 12 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be installed in accordance with approved details prior to the first occupation of the development and maintained for the lifetime of the development.

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

### **3. Refuse and Recycling**

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained and maintained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policies DE1 and W1 of the Torbay Local Plan 2012-2030.

#### **4. Crime Prevention Plan**

Prior to the first occupation of the development hereby approved, a Crime Prevention Plan shall have been submitted to and approved in writing by the Local Planning Authority. The submitted Crime Prevention Plan shall detail crime prevention measures for the site, including access control, how external doors and windows will be secured, how private rooms will be secured, details of CCTV, and what facility there will be for the receipt of mail delivered to the property. The use shall at all times operate in full accordance with the details of the Crime Prevention Plan.

Reason: To ensure safety and security for residents of the property and of neighbouring properties, and in accordance with Policies DE1, H4 and SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

#### **5. Use**

The sui generis supported living accommodation hereby approved shall:

- a) Only be used to accommodate residents who are already resident within the administrative area of Torbay Council
- b) Only be operated by YMCA Exeter for the approved use
- c) Serve a maximum of 9 residents at any one time in single occupancy 'flats'
- d) 'Flats' 1, 2, 4, 5, 6, 7, 8 and 9 shall not be occupied by an individual for longer than 3 years in total
- e) 'Flat' 3 shall not be occupied by an individual for longer than 3 weeks in total

When the premises cease to be used by YMCA Exeter for the approved use, the use hereby permitted shall cease and the property shall return to use as holiday apartments with owner's accommodation.

Reason: In the interests of providing a service to address local needs and providing an acceptable residential environment in accordance with Policies H1, DE3 and SS11 of the Torbay Local Plan. The site is in an area where a change in either the operator or the type of use may lead to detrimental effects on the area. In the interests of residential amenity in the area and to ensure that the operation of the site accords with Policy DE3 of the Torbay Local Plan 2012-2030. Any variation from the provider of services must therefore have the express approval of the Local Planning Authority.

#### **6. Parking**

The existing car parking spaces on the site, shall be retained and provided for the free use of occupants and visitors to the site prior to its first occupation for the use hereby permitted.

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

### **7. Flood Mitigation**

The development shall be carried out in accordance with the submitted flood risk assessment (Ref.:1765, dated 4<sup>th</sup> July 2024) and the mitigation measures detailed within section 4, including allowing access to upper floor levels within the building should a flood event occur.

These mitigation measures shall be fully implemented prior to first occupation of the development hereby approved. The measures shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In the interest of flood risk safety in accordance with Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance of the NPPF.

### **8. Management Plan**

The development hereby approved shall be operated and occupied in strict accordance with the approved Management Plan (received 02.10.2024) at all times.

Reason: In the interests of providing a service that addresses an identified housing need and in the interests of residential amenity in the area and to ensure the management of the site accords with Policy DE3 and SS11 of the Torbay Local Plan 2012-2030.

### **Torbay Local Plan**

SS13 - Five year housing land supply

SS10 – Conservation and the historic environment

SS12 – Housing

SS14 – Low carbon development and adaption to climate change

SDP1 – Paignton

SS11 - Sustainable communities strategy

H1 - Applications for new homes

H2 – Affordable housing

H6 - Housing for people in need of care

DE1 – Design

DE3 - Development amenity

ES1 – Energy

ER1 - Flood risk

ER2 – Water management

SC1 – Healthy bay

TA2 - Development access

TA3 - Parking requirements

NC1 - Biodiversity and geodiversity

W1 – Waste hierarchy

TO1 –Tourism, events and culture

TO2 – Change of use to tourism accommodation and facilities

### **Paignton Neighbourhood Plan**

PNP1 (c) – Design Principles

PNP1 (d) – Residential Development

PNP1 (f) – Towards a sustainable low carbon energy efficient economy

PNP1 (g) – Designing out crime

PNP1 (h) – Sustainable Transport

PNP1 (i) – Surface Water

PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area