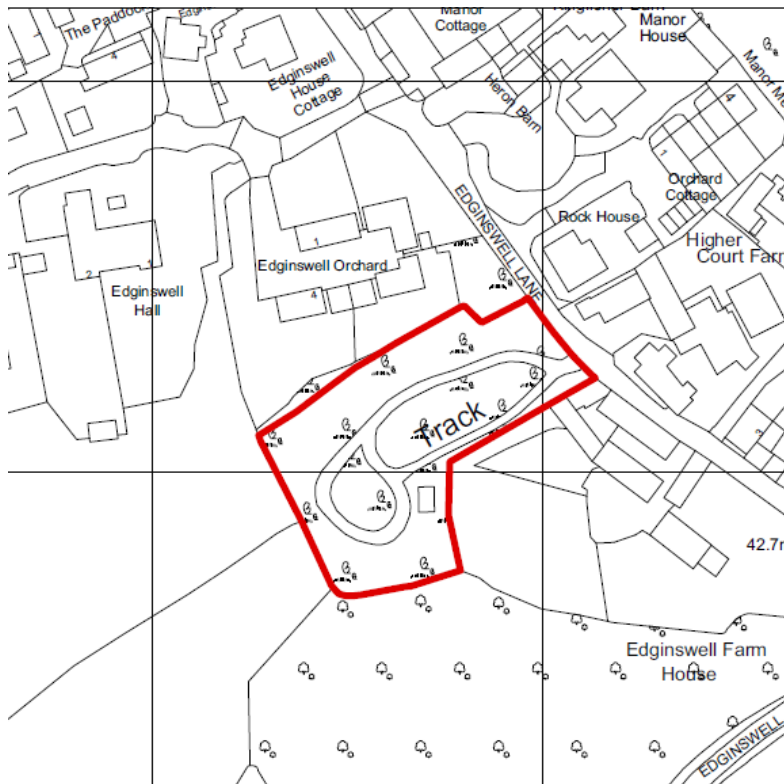


TORBAY COUNCIL

Off

Application Site Address	Brends Orchard Land Adjacent Edginswell Farm House Edginswell Lane, TQ2 7JF
Proposal	Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-establishment of orchard included in project (plans amended 25 April 2024).
Application Number	P/2023/0172
Agent	Gillespie Yunnie Architects
Applicant	Mrs H Harle
Date Application Valid	16/02/23
Decision Due date	31/07/24
Extension of Time	18/10/24
Recommendation	Refusal
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by Councillors.
Planning Case Officer	Sean Davies

Site location plan



Site Details

The site, Brends Orchard, land adjacent to Edginswell Farm House, Edginswell Lane, Torquay, comprises a parcel of land with an access on the west side of Edginswell Lane. The site is located within the Edginswell Future Growth Area for housing and related development as defined by Policy SS2 of the Torbay Local Plan. The site is not in a Conservation Area but is adjacent to a number of Grade II listed farm buildings at Edginswell Farm to the south. The Council has stated that the stone wall bordering the site along Edginswell Lane is also Grade II listed, although much of this wall has been removed or reduced in height. The site is covered by an area wide Tree Protection Order (ref 2021/002) which was introduced after the site was substantially cleared of pre-existing trees. A proposed extension to the National Cycle Network runs in front of the site along Edginswell Lane and connecting to the existing National Cycle Network along Newton Road.

Description of Development

Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-establishment of orchard included in project (plans amended 25 April 2024).

The proposals include the following elements:

- Clearance of the site to create five new dwellings arranged in two blocks opposite each other consisting of a "Barn" structure comprising three terraced dwellings each with three double bedrooms and a "Farmhouse" structure comprising two semi-detached dwellings each with three double bedrooms and a single bedroom. All new houses would have rear gardens and very small planting areas at the front.
- Hardstanding between each block and a detached bin store.
- A new vehicular access onto Edginswell Lane, with some pre-existing and removed sections of a listed wall rebuilt and otherwise reduced in height.
- Provision of a section of bridleway through the site built to adoptable standards (including street lighting) using a shared surface from Edginswell Lane to join, in future, to an envisaged longer section of bridleway connecting the site with the future Edginswell Growth Area.
- Enhanced boundary planting and a residents' orchard between the side of the proposed barn unit and Edginswell Lane.

Engagement

The applicant has not made a pre-application enquiry prior to the submission of the current application or sought advice from the Torbay Design Review Panel.

The applicant initially provided an INITIAL set of documents and plans with the application. The Council's Uniform IT system records that neighbour letters advertising the application were printed on 27/02/23. In response to objections and negative comments received from neighbours and consultees about these proposals officers arranged a meeting with the applicant on 27/06/23. Those present were the applicant and their planning agent, the Case Officer, the Senior Officer who had provided heritage and design comments, a Torbay Highways Officer and a representative from WSP who had advised Torbay Highways about the highway impacts of the proposals.

The Council engaged with the applicant from the date of the meeting for almost a year to resolve various issues associated with the proposed access. This culminated on 25/04/24 when the applicant submitted 29 new documents and plans to address outstanding issues connected with the access and a REVISED set of plans showing the proposed housing within the site.

Officers reconsulted neighbours and relevant consultees on these revised plans for three weeks. The summaries of "Consultee responses" and "Representations" below are ordered "INITIAL PROPOSALS" and "REVISED PROPOSALS" to make this clear.

It should be noted that officers made it clear to the applicant on 30/04/24 following receipt of the 29 documents received on 25/04/24 that:

"...Please note that it is very unlikely now that I will accept any further plans or info for this case. The file has been left open for a very considerable amount of time now. I expect that we will assess what we now have and make a decision. If we need a minor change making to make the proposals acceptable, we will of course ask for that but as I say it is very unlikely that I will accept any new plans now at this stage unless we specifically ask for them".

Notwithstanding this, while officers remain of the view that the design of the proposed housing is unacceptable, they have attempted to resolve other points of disagreement with the applicant in advance of Planning Committee in line with a request made by Councillors. As a result, details of the proposed access, ecology issues and tree dominance have now been resolved.

Details about progress in resolving these issues are provided under relevant sections of the report below.

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:

Development Plan

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

Material Considerations

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

Summary of Consultation Responses

As noted above, officers have received two design iterations of the proposals from the applicant. The summary below is split into two parts. The INITIAL PROPOSALS section summarises responses received from consultees in relation to the original proposals. The REVISED PROPOSALS section sets out consultee responses received in relation to the second set of drawings supplied by the applicant in April 2024. It is important to note that officers did not reconsult all consultees and opted not to do this where the initial consultee response was considered to be sufficient to also cover the revised proposals.

INITIAL PROPOSALS

Torquay Neighbourhood Plan Forum: "...The Forum Objected to the previous Application, P/2021/0809. We have reviewed this new Application against Development Policies, and find a similar level of non-compliance, as shown in the attached Policy Checklist.

The Forum is deeply concerned that while the parcel of land lies at the edge of the Future Growth Area the land, which was a historic orchard, has been cleared without any known permissions. This premature clearance has meant that proper and full assessment of the area is no longer possible so any environmental impact cannot be fully addressed. Nevertheless, the site is associated with Lesser Horseshoe Bats, is in a Flood Risk Zone 1, appears to include a subterranean water course which has not been identified, and may be susceptible to subsidence into sink holes. In addition, the location in a small hamlet with narrow lanes raises concerns with regards to accessibility and highway safety. The existing hamlet comprises a number of historic agricultural buildings, some of which are Grade II Listed. No account of the impact has been addressed in the Application.

On the basis of non-compliance with 19 Local Plan Policies and 9 Neighbourhood Plan Policies, the Forum requests that you Refuse this Application for variation...

Objection to Policies SS1, SS3, SS8, SS9, SS10, SS11, SS14, TA1, TA2, C4, NC1, HE1, H1, DE1, DE2, DE3, DE4, ES1, ER1, ER2, ER4 of the Torbay Local Plan and Policies TS1, TS3, TH1, TH2, TH6, TH8, TH11, TE3, TE4, TE5, TE6..."

Torbay Arboriculture: "The site is accessed off Edginswell Lane between a residential complex and a number of what appear to be farm buildings. The majority of the significant trees and shrubs are located around the periphery of the site with the central areas overgrown. The units are located to the west of the site with the access of Edginswell Lane and associated parking for the 5 properties to the front of each of the properties. The tree protection plan 1271.1.TPP indicates the location of the tree protection fence. The concern with the layout is the potential for the offsite trees (T2 and T3) to be perceived as dominant, leading to unwanted applications for tree removal or substantial pruning particularly of the Pine tree. The landscape plan shows the planting of an orchard to create a strong feature at the entrance to the site - this is welcomed. The remaining planting does not adequately bolster the existing hedgerows or provide boundary treatments that would enhance the hedgerows. Although hedgerow enhancement is discussed within the ecological assessment it is not apparent on the submitted landscape information.

Conclusion: The site is not sustainable from an arboricultural or landscape planting perspective.

Recommendation: Provide further planting to bolster the existing hedgerows to include planting densities, sizes and maintenance. Assessment of potential dominance of units 1, 2 and 3 by trees off site trees 2 and 3”.

South West Water: “I can confirm South West Water has no comment or concern”.

Torbay Structural Engineer: “Nothing to report from this office – no specific risks you describe known to pertain to this locality...”

Devon County Council Ecology: No objection. Request for submission of Metric for Biodiversity Net Gain.

Torbay Community Safety: no objection subject to Construction Management Plan.

Natural England: “No objection”

County Archaeologist: “...I recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team. If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with Paragraph 205 of the National Planning Policy Framework (2021) and Policy SS10 in the Torbay Local Plan 2012 - 2030, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

‘No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: 'To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development...”.

Senior Officer comments (Heritage): “... The two main heritage issues appear to be whether the proposal would preserve the setting of the adjacent Grade II listed buildings and the effect on the character and appearance of the area. I am also aware that we will need to consider the public benefits of the proposed dwellings given the housing supply position.

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. The application is supported by a Heritage Assessment and Access Design Statement.

I acknowledge the evolution of the design since the previous application and subsequent appeal decision. The design challenges have not changed over time, so it seems clear that the balance needs to be struck between the SPD (and illustrative masterplan) and the clear opinion from the Inspectorate on the significance of the historic landscape and in turn the impact on setting of the listed buildings by such a development.

There would be a difference between the views available now (into the site) and the change in view (as part of the proposed development). The proposal would create a public viewing points through the urbanisation of the area and by creating a link to future development. There would be a new appreciation of the listed buildings, of their setting and in turn the changed landscape value of the site. There would therefore appear to be change to the significance and setting of the listed buildings through the proposal.

The architectural language has evolved significantly from the previous schemes which aims to reflect the agricultural/rural nature of the local area. The proposal aims to create a farmhouse with associated barns,

store and yard area. The layout is broadly similar in position to the previous scheme, in that the form is taken in two lines either side of a vehicle access. I appreciate the attempts to move the dwellings further into the site and group them, but I am unclear how this significantly overcomes the previous reasons for refusal and inspectors decision.

The three unit barn block appears relatively monolithic, with a highly complex front elevation utilising full length windows. The overall height and massing appears to assert a range of buildings much higher than the lower listed counterparts on Edginswell Lane. The supporting information discusses creating a hierarchy of buildings from Edginswell Lane, however, the proposed barns would be much larger in scale and massing than their listed counterparts.

The tightly designed parking and garden areas to the front seem at odds with the agricultural/rural theme it is trying to establish.

Similarly the two unit 'farmhouse' appears broadly in a position clearly set out in the previous decision as having an impact on the setting on the listed buildings. They would also have similar issues as raised above around the failure to reflect the local setting.

In summary, there's clearly been steps taken to overcome the design challenges set out by the previous decisions. However, there are still extensive new dwellings, all at a large scale, although grouped they are still broadly the same position as previously refused. The proposed rural aesthetic seems to be undermined by some of the design choices, architectural treatment and urban features. In any case, the Inspectors comments were extremely clear on value of the historic landscape setting of the listed buildings.

In my view, the proposal would result in less than substantial harm to the significance of the Grade II listed buildings and conflict with policy SS10 of the Local Plan. Paragraph 11d of the NPPF is not engaged as the impact on designated heritage assets is a clear reason for refusal".

"... Further to my previous comments, please see the following regarding the wall:

The supporting Heritage Assessment for the current application includes the following:

The boundary wall to Edginswell Lane

1.5 In the decision notice to the planning appeal (reference APP/X1165/W/21/3287683) for the most recent application for the site (Torbay Council reference P/2021/0809; see also Section 1.10 below) the Inspector noted public concerns over previous partial demolition of the boundary between the site and Edginswell Lane. Similar concerns had not previously been raised by Torquay Council in this or previous applications. No works are proposed to the boundary wall as part of the current scheme, and the status of the wall is therefore not considered further within this document.

Para 4 of the 2022 appeal states:

'Interested parties have drawn my attention to access works at the entrance to the appeal site.

Photographic evidence has also been submitted which shows a section of roadside (traditional stone) wall (attached to the Grade II listed calf house immediately adjoining the site) removed. The removal of this section of roadside wall would almost certainly require listed building consent. I am unaware of any accompanying listed building appeal and there is no information before me to indicate that any such application has been made'.

I understand an enforcement case has been logged regarding the wall, but I am not currently aware on the progress of this investigation. In my view, managed change through planning and listed building applications to gain access into the site may be acceptable. However, we would require a thorough assessment of heritage significance and balance the public benefits of gaining access to facilitate new housing. The loss of the wall to create the access would appear to be an intrinsic part of understanding the merits of the application".

Torbay Highways: "... Prior to providing a recommendation, the applicant will be required to provide the following information:

Visibility splays of 2.4m x 43m in primary and secondary directions from the new access. If this cannot be provided, then this would result in a refusal from the Highway Authority on safety grounds considering the potential future intensification in use of the site and access;

A dimensioned plan for the new access that is in accordance with the Torbay Council Highways Design Guide for New Developments (July 2021);

An updated refuse management plan for the proposed development that complies with standards outlined within Schedule 1, Part H of the Building Regulations (2015) or provide details relating to the private management company that will service the site; and

Illustrate the provision of a safe and suitable pedestrian / cycle route to ensure connectivity with the Future Growth Area. This should be secured by a suitable, long-term maintenance plan which is to the satisfaction of the Council. In addition, the access through the site and onwards to the valley should be secured as a bridleway with a public right of access so that access is not potentially impeded in the future”.

Torbay Waste & Recycling SWISCO: “If SWISCO are requested to collect domestic recycling and waste, we would collect from Edginswell Lane and will drive up to the bin store. It would be essential for an area of hardstanding to be provided by the entrance to the site, to prevent leaving bins on the highway on collection day. SWISCO also now offer a garden waste collection, using 240 litre wheeled bins, so the developer would need to ensure that there is adequate space for storage of these if the residents choose to subscribe to this service.

If a private contractor is used to collect, they might have problems wheeling bins over the gravel surface for collection. The obstruction to visibility when leaving the site may also cause a problem to any waste contractors leaving the site. I would like to request waste management contributions for this development, in line with the table below.”

Torbay Strategic Planning: “I have been asked to provide some commentary on this application from a strategic planning perspective. These comments update and draw upon previous comments made on previous applications at this site. They should be cross-referenced and seen as a supplement to comments in respect of Highways, provided by colleagues. Principle of housing development: The Torbay Local Plan 2012-2030 identifies this area of land as forming part of a Future Growth Area (Policy SS2) to deliver a range of new development including residential schemes, employment opportunities, green infrastructure, new facilities, etc. This broad allocation in the Local Plan, covering a much wider area than this individual site, is supplemented by additional detail within the Torquay Gateway (Edginswell) Masterplan SPD. The Torquay Neighbourhood Plan is also relevant. The Torquay Gateway (Edginswell) Masterplan provides a concept and illustrative masterplan for the Future Growth Area, including for the provision of 550 homes. Whilst the final built form of the future growth area is unlikely to exactly replicate the masterplan, it does set out key principles to guide the further detailed development of proposals within the area, including on design, layout and strategic approach. With respect to the Brends Orchard site, it is included within an area identified for limited additional development in a sympathetic style which respects the hamlet character of Edginswell and also provide cycle and pedestrian links onwards to the valley area as part of comprehensive redevelopment of the wider valley.

The Torquay Neighbourhood Plan supports development proposals which accord with the masterplan and the objectives of the neighbourhood plan (see Policy TS2, TH6 and Community Aspirations). The objectives for the area include, among others, underlining the importance of high quality, considered design. The principle of providing a form of housing provision on this site is supported by Torbay Council planning policy, including the Local Plan, Torquay Neighbourhood Plan and the Torquay (Edginswell) Masterplan SPD.

Transport connectivity: In terms of transport connectivity, the Masterplan makes it clear that a connecting link should be provided through the site to facilitate a future proposed walking and cycle link connecting future development within the Valley to Edginswell Lane. The application provides for this link and the layout of the route is direct and legible. I am satisfied that a shared surface approach rather than a separated walking/cycle path is acceptable in this instance, given the low numbers of vehicle movements from the proposed dwellings. The application proposes that this route does not become adopted highway and is not built to adoptable highway standards. This creates issues on two counts:

1. Adoptable highway standards provide some surety over meeting minimum standards of quality of provision for all users both initially when the scheme is built and into the future. It is also a key element of enabling waste vehicles to adequately serve properties without the requirement for additional indemnity insurance to be provided and/or for waste provision to be provided away from the kerbside. In this instance the proposed surfacing of the unadopted highway is proposed to be a form of compacted gravel which is likely to cause particular problems for some users of the route undertaking active travel particularly adapted cycles and wheelchair users. A fixed surface, such as metalled or resin-bound, should be provided in order for the lane to enable inclusive use.

2. The security of the long-term effective maintenance of the unadopted lane/route is complicated and, even with the addition of a robust management plan being in place (which detail has not been provided for in this application), the risk of the route not being maintained sufficiently in perpetuity to encourage use by a wide range of walking, cycling and wheeling users is increased if it is unadopted. Given the strategic significance of this route as a connection, the risk to the public is greatly amplified. It would be of a great long-term

benefit to see the access lane built to a standard capable of being adopted by the Council. Currently it is not designed as such.

In addition, the access through the site and onwards to the valley should be secured as a bridleway with a public right of access so that access is not potentially impeded in the future. Considering the potential significance of this connection for active travel and potential high future use, it is recommended that a suitable Section 106 contribution is obtained in order to secure this as such and to also provide appropriate high-quality wayfinding (signage) from both Edginswell Lane and the valley entrances on the eastern and western entry points respectively. The masterplan also indicates some additional development taking place adjacent to this site as part of a limited portion of sympathetic development within this area. To facilitate access to this area by way of vehicles, a vehicular access is envisaged through the Brends Orchard site to allow for connectivity directly to the land to the south of the site. The Council is currently in discussions with a developer, representing multiple land-owners, and work is underway to develop a comprehensive planning application for the wider site. The design work undertaken to date indicates that development is unlikely to be proposed within this area as the emerging strategy favours accessible green infrastructure rather than built development as being more suitable and deliverable in the context of the strategy for the wider valley. Therefore, I am satisfied that the absence of a connecting road to allow onward movement of vehicles is acceptable and the focus on limiting access to pedestrian and cycles is the correct one. However, the potential for the access on the western entry point to be used for emergency vehicles is something which is not currently provided for in the application however could be readily achieved with some changes to the detailing of the entrance both in terms of safeguarding an acceptable width and appropriate gates...”

REVISED PROPOSALS

Torquay Neighbourhood Forum: No response received.

Historic England:

13/05/24

“...On the basis of the information available to date, in our view you do not need to notify us of this application under the relevant statutory provisions, details of which are below...”

Torbay Waste & Recycling - SWISCO:

04/06/24

“...In response to this consultation request I would have no objection to this development. I note that the developer now proposes to build the road to adoptable standards and that it will be subject to a Section 38 agreement. Should the adoption of the highway not progress, a formal indemnity arrangement will be required before SWISCO would drive onto the site to complete collections. This will mean that each dwelling

will be provided with individual recycling and waste containers, to be stored within the curtilage of their own property and presented adjacent to the adopted public highway for collection. I believe that there is adequate space at each property to store waste containers, although I would expect the storage location and the collection point to be shown on submitted plans, to prove compliance with Building Regulations H6. I note the swept path analysis for the refuse collection vehicle, which has been submitted, but I cannot see how our collection vehicles will be able to turn on the adopted highway before leaving the site in a forward gear. Our collection teams would not reverse either on to nor off the site to complete collections and will require a sufficient turning head within the development. As per my original consultation response, I would like to request waste management contributions for this development, in line with the table below...”

Devon County Council Ecology:

13/06/24

“ For application P/2023/0172, our previous response requested that the completed Defra metric calculation spreadsheet is submitted, which evidenced a net gain in biodiversity. This doesn't appear to have been submitted with the recently uploaded documents. We will need to review this to fully comment on the proposed habitat creation and enhancement measures described in the ecology report”.

11/07/24: Biodiversity net gain (following submission of BNG Metric)

“ This application pre-dates the statutory requirement for 10% net gain. With that in mind, even though a 10% net gain in biodiversity is not achieved by this application I am content that a gain in biodiversity is achieved (at the very least no net loss is achieved) and in the absence of a local plan policy requiring anything further, this is deemed acceptable. Please ensure habitat creation and management is secured through a LEMP”.

04/09/24

“ I haven't had any further documentation regarding this application from the consultant ecologist. We spoke very briefly on the phone but I have not received any further information. It is highly likely that any street lighting for this development will not be acceptable from an ecological perspective given the presence of a lesser horseshoe bat roost adjacent to this site. That is one of the reasons why restrictions on lighting was so important – unless a full lighting strategy is submitted which evidences the introduction of street lighting will not impact upon this roost or bat commuting routes, I do not think I will be in a position to support the introduction of street lighting”.

26/09/24: Lighting (following submission of lighting plan)

“The plan is welcomed as it shows the location of the proposed lighting columns, but it still doesn't provide any detail on the impacts of this lighting on ecology. As previously stated, a full lighting strategy which shows lux contours, along with comments from the consultant ecologist, is required for us to understand what impacts the integration of street lighting into this development will have on this site and crucially features used by light sensitive bat species known to roost in the locality. This plan is a good start, but does not go far enough to allow us to make a planning decision”.

02/10/24 (in response to points raised by the applicant and officer queries)

“On reflection of the information submitted to the LPA in the form of the lighting strategy and the previous recommended conditions, I do now believe that sufficient information has been submitted to allow the LPA to better understand impacts on nocturnal wildlife.

The introduction of two lighting columns is noted, but given the locations proposed and the number, it is believed that the detail of light spill can be secured as a pre-commencement condition, which will require the applicant to evidence how best practice guidelines have been followed with regards to bats and lighting, as well as how habitats which are likely used by bats are kept dark. Given this will be a pre-commencement condition, development cannot begin until that lighting information has been agreed with the LPA.

We are aware of the lesser horseshoe bat maternity roost present to the north of the site, and will ensure that flight corridors for the species through the site are secured when discharging the pre-commencement condition”.

“Impacts to the South Hams SAC were screened out during my initial comments – no need for a HRA in this instance”.

Torbay Principal Historic Environment Officer:

12/07/24: General comments

“...I have now had the opportunity to assess the submitted revisions and would offer the following comments:

The inspector in their assessment of APP/X1165/W/21/3287683 has made it clear that the application site lies within the setting of the six adjacent Grade II listed buildings and the green open qualities of the application site are an integral part of the remaining countryside to the south and west of these buildings which make a contribution to their significance as designated heritage assets. As a result, the provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the guidance contained within the NPPF in relation to the historic environment and relevant local policies are engaged.

The current revisions of the scheme go some way to address the concerns previously raised on the proposals by reducing the overall scale of the proposed structures and by refining their design to follow a more successful agricultural aesthetic. In this regard, I would advise that subject to further minor refinement to external elevational treatments, plots 1-3 are largely acceptable. However, issue remains with the proposals for both plots 4 and 5, with regards to their position within the site and the chosen design approach to reference a ‘farmhouse’. The over-domestic approach to these plots, the introduction of an additional building type with an additional material palette would be harmful to the significance of the identified heritage assets and would confuse the clear narrative and hierarchy of adjacent historic development of a singular principal farmhouse (the existing listed building) and its relationship with surrounding ancillary agricultural structures.

It is considered that a more successful design approach which would potentially limit the harm caused to the identified designated heritage assets would be to continue the architectural language used for plots 1-3 and to explore the use of an ‘L-shaped’ form of development within the NW corner of the site which wraps around a central yard. This would allow the southern area of the site, which is considered to be the one of the most sensitive with regards to the setting of nearby heritage assets to be free of built development to provide a more substantial landscape buffer to the group of listed buildings. This would likely require a reduction in the quantum of proposed housing from 5 to 4 and would require significant alterations to the current proposals. As a result, I would strongly advise that this be explored through the detailed pre-application process.

In their current form, although the design of plots 1-3 has improved, the issues highlighted with regards to plots 4 and 5 would still result in less than substantial harm to the significance of the Grade II listed buildings and conflict with policy SS10 of the Local Plan as previously identified by the inspector on previous submissions and through previous versions of this current application. This would have to be weighed against the public benefits of the scheme whilst being mindful that paragraph 11d of the NPPF is not engaged as the impact on designated heritage assets would be considered to be a clear reason for refusal.

With regards to Historic England, they would rarely comment on proposals impacting on the setting of Grade II listed buildings, therefore their comment below is expected. I would echo Jim’s previous comments with regards to the potential unauthorised works to the listed wall in that listed building consent would be required for such works and that a thorough assessment of the heritage significance and impacts of the works would be required along with the balance of the public benefits of gaining access to facilitate new housing. I agree with previous comments that the loss of the wall to create the access would appear to be an intrinsic part of understanding the merits of the application...”

25/09/24: Comments on status of boundary wall (following submission of Addendum to Heritage Statement)

“Thanks for the attached info – from the information provided to date I would still be of the opinion that the wall is listed for the reasons previously given. The applicant has the ability to make use of Historic England’s enhanced listing service should they wish to challenge this:

<https://historicengland.org.uk/services-skills/our-planning-services/enhanced-advisory-services/listing-services/>

As the updated assessment suggests, the level of harm caused by the loss of the section of walling should be weighed against the public benefits of the scheme. I would advise that this would cause a low level of ‘less than substantial’ harm which should be included with the other heritage harm identified – this would add further weight to be assessed against the public benefits of the scheme as the NPPF requires. The general duty for LPAs as respects listed buildings in exercise of planning functions will also be engaged which affords special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

Torbay Highways:

05/06/24:

“... The Highway Authority has previously provided the following consultation responses in relation to this planning application:

24th May 2024

19th February 2024

2nd February 2024

3rd January 2024

14th June 2023

2.0 Update

Access

2.1 In the most recent response to this planning application the Highway Authority opted to recommend a ‘prior to commencement’ condition to provide double yellow lines in order to ensure the proposed access junction can be accessed by larger vehicle turning north (i.e. fire appliance / refuse collection).

2.2 However, concerns have been raised that the condition may not be implementable, and the planning process needs to be clearer.

2.3 Therefore, the Highway Authority are now of the position that a drawing needs to be submitted that shows the double yellow lines northwards out of the site access junction. In the event the associated double yellow line TRO is not implemented, a second drawing is required that shows a build-out or other suitable design feature in the location of the TRO that will prevent car parking to the immediate north of the access [this would then need to be delivered via a S278 – the design must be in line with relevant standards]. This second drawing requires a swept path assessment to be submitted to demonstrate a large vehicle can turn out the site and safely route pass the build-out/ designed feature [Note to applicant: a RSA S1/S2 will be required at the S278 stage should the build-out / design feature be required].

2.4 Until the above details have been submitted, the Highway Authority are unable to confirm a safe access arrangement can be provided that accommodates larger vehicles and therefore wishes to raise an objection.

2.5 Once details are provided and found to be satisfactory, the Highway Authority will recommend a Condition which sets out the need for the implementation of the TRO or build-out/design feature option prior to use of the permitted development.

2.6 The following was stated in the previous Highway Authority response:

2.7 This remains applicable, however it is requested that the applicant submits a plan which shows the provision of adoptable street lights along the internal access road as this is a key route for the adjacent future growth area. Once this submitted, the Highway Authority will recommend a condition that the proposed active travel route through the site to the growth area will remain clear and maintained until adopted. The condition will also state that the highway details submitted which must accord with adoptable

standards. An Informative will also be recommended that states that the Highway Authority intends to serve an Advance Payments Code notice on receipt of Building Regulations plans. This is to ensure that the road is constructed to adoptable standards.

2.8 The following was stated in the previous Highway Authority response and remains applicable:

Onsite Design

Drawing No. 797d-LvW-GEN-EL-DR-TR--LS01 sets out the proposed long section of the access road into the site. This shows a 10m length at a 5% gradient at the junction with Edginswell Lane and the remainder at a maximum gradient of just over 5%. This is in-line with the guidance which is set out on page 20 of Torbay's Highway Design Guide and is therefore considered acceptable.

It is stated within the 'Response to Highway Authority Comments', dated April 2024, that "the access road is now designed to adoptable standards and will be subject to a Section 38 Agreement". This is welcomed.

Drainage

Due to the proposed hard standing at the site, coupled with the gradient of the access road, there is considerable potential for rain water run off from the site onto Edginswell Lane and create issues with standing water / flooding. Prior to the commencement of any works on site, the Applicant should provide detailed drainage design to the Local Highway Authority which addresses the potential for run off from the site / access road onto Edginswell Lane. This has been requested by way of planning condition.

3.0 Conclusion

3.1 The Highway Authority wishes to raise an objection until the issues set out above are resolved".

27/08/24: Double yellow lines (following submission of new plans for double yellow lines or build out)

"... The double yellow line option is ok (it may be possible to reduce the length of the DYL to the northern end of the speed cushion (the speed cushion isn't shown on the drawing) and perhaps some improved signing / lining/ Speed Indicator Device) ..."

04/09/24: Streetlighting

"... Yes, to meet adoptable standards street lighting will need to be installed. I would say yes, the link to the future growth area would need to be lit to encourage safe access for all users ..."

01/10/24: Streetlighting (following submission of lighting plan)

"See below for comments from our Lighting Team..."

Yes all seems to be ok, contact Iain Mansfield at Holophane, I am sure would be happy to provide the design. If you could mention that we would request Holophane S-Line luminaires programmed with Torbay's dimming regime as below. Ideally fitted on 6 metre columns CU Phosco galvanised steel columns. DUSK - 22:00 = 100%, 22:00 - 00:30 DIM TO 70%, 00:30- 06:00 DIM TO 50%, 06:00 – DAWN = 100%".

Torbay Arboriculture:

15/07/24

"I have spoken with Dan and his comments remain unchanged.

The Tree Dominance Plan indicates some limited consideration has been given to retained trees in third-party land. This should have been addressed with professional arboricultural input as part of an Arboricultural Impact Assessment. Issues which have not been addressed are future pressure (to fell or prune) due to perceived risk. On this basis, Dan's comments requesting additional information have not been satisfactorily addressed as part of the planning submission".

09/09/24 (following submission of Arboriculture Impact Assessment (AIA), Tree Protection Plan (TPP) and Arboriculture Method Statement)

"I have checked the AIA produced by Devon Tree Services. This clearly states within section 5.7 "There are no works proposed within the RPA of retained trees therefore these matters have not been considered". This appraisal contradicts the proposal to 'hand trowel' foundations / structures within the RPA. Further clarification on the extent of any works within a tree RPA must be provided to ensure any potential damage

to third-party owned / protected tree is avoided or minimised. This information cannot be secured by a planning condition”.

02/10/24 – verbal discussion with case officer

No objection subject to conditions for recommendations in AIA and TPP to be followed and further planting details.

Torbay Drainage: Please see full response. Extract:

17/07/24

“... The Environment Agency flood maps identifies this development site as being located in Flood Zone 1 and not in an area susceptible to surface water flooding. The existing site appears to be overgrown with some tracks and no surface water drainage. It is likely that the field is compacted and is acting as an impermeable area during heavy rainfall. This would explain the surface water run-off from the field onto Edginswell Road that is shown on the photographs supplied [photographs provided by an objector showing flooding from the site, and also from Edginswell Farm, into Edginswell Lane]. Within the support documentation for the planning application the developer has identified that surface water drainage from the development will be discharged using infiltration techniques. By designing the surface water drainage for the development in accordance with the design standards the risk of flooding from the development site to Edginswell Road will be significantly reduced...”.

Summary Of Representations

Approximately 23 objections have received. Approximately 13 were received in respect of the initial proposals and approximately 10 have been received in respect of the revised proposals. It should be noted that several objectors have made more than one objection in relation to both the initial and revised proposals and so it should not be assumed that 22 different people have objected. It should also be noted that some objectors who responded to the consultations on both the initial and revised proposals have made it clear in their response to the latter that all of their comments relating to the former still apply. Officers have determined the current revised proposals on this basis and understanding.

INITIAL PROPOSALS

Works carried out so far

- Trees and historic stone wall were removed without consultation/licence, causing collapse of end wall of stone barns at Edginswell Farm. Archaeological evidence has also been lost. The new access onto Edginswell Lane has been made without Highways consent (there is an ongoing enforcement case).

Design

- Design is not of a hamlet character as recommended in Edginswell Gateway Masterplan and is sub-urban in character
- 5 dwellings are overdevelopment
- Contrary to Policy DE1 as does not achieve biodiversity net gain
- Proposed tree planting inadequate and does not provide enough screening

Amenity

- Proposals compromise amenity recreation/amenity of existing residents
- Occupants of existing houses would be able to look into gardens/habitable rooms of new houses and vice versa.
- Contrary to Policy DE3 due to noise, nuisance, visual intrusion, overlooking, privacy, air pollution, traffic increase, fumes, vibration, dust

Heritage

- Proposals would be detrimental to the setting of listed buildings
- Contrary to Policy SS10 due to lack of archaeological evidence

Transport

- Proposed access is opposite P&P lifts car park. P&P vehicles park on street and this will reduce visibility from the new junction and add to existing congestion caused by on-street parking by P&P Lifts vehicles
- Proposed access is on a narrow stretch of Edginswell Lane on a blind corner

- No public footpath to local bus services on Newton Rd or proposed rail station at Edginswell so people will have to travel by car
- Increased traffic on Edginswell Lane
- Edginswell Gateway Masterplan shows site served by pedestrian/cycle access onto Edginswell Lane only – vehicle access should not be allowed.
- Not clear where proposed footpath or cycle path would be
- Contrary to Policy TA2 as proposed access not safe
- Children living at new houses will not be able to walk to school safely
- Proposed driveway not wide enough for two vehicle to pass
- Not clear how construction vehicles would access site
- Lack of parking could lead to overflow parking on Edginswell Lane

Ecology

- Contrary to Policy SS8 due to tree felling and effect on foraging for lesser horseshoe bats (including a colony at Higher Court Farm) and birds and other wildlife.
- Proposal involves bio-diversity net loss.

Trees

- Concerns about damage to roots of veteran oak & Monterey Pine covered by TPO.
- Contrary to Policy C4 due to trees already felled.

Infrastructure

- Contrary to Policy H1 as existing sewer at capacity, GP surgery set to close, access to dental services limited
- Sewer serving Edginswell Lane already at capacity. Raw sewage has overflowed onto Edginswell Lane twice within last 12 months

Flooding

- Contrary to Policy ER1 – since woods felled there has been an increase in flooding along Edginswell Lane

Subsidence

- Contrary to Policy ER4 – there are sinkholes within site that have been filled by applicant. Also, underground cave systems that feed artesian wells at the Manor House, Edginswell Farm and Higher Court Farm
- Steep bank on northern boundary with Tydemans Reach could collapse when vegetation cleared

OTHER ISSUES

- Construction disruption
- Possible damage to boundary wall
- Removal of historic wall and creation of new access without permission
- Clearance of protected TPO trees
-

Officer note: Some degree of disruption is usually inevitable during construction. Conditions can be used to require a Construction Management Plan and to limit hours of work. It is not considered that the construction work required in this development is unusual and impacts can be dealt with and mitigated through standard conditions. Any damage to walls would be a civil matter that the parties would need to resolve between themselves. There have been several allegations that sections of the wall bounding the site and Edginswell Lane have been removed/lowered in height.

REVISED PROPOSALS

Design

- Design is not of a hamlet character as recommended in Edginswell Gateway Masterplan and is sub-urban in character
- Overdevelopment; 5 dwellings is too many
- Buildings will be too high in relation to listed barns
- Poor design – pastiche of commercial farm buildings

- Country to DE1, TH8, H1.9, TS2
- No relationship with adjacent historic buildings
- Access road over-engineered and leaves insufficient room for tree planting
- Number of new buildings, hard surfaced area and wide new access erodes green unspoilt qualities of the site and setting of listed buildings
- Loss of historic wall removed pre-existing sense of enclosure.

Amenity

- Overlooking to neighbours

Heritage

- Negative effect on setting of adjacent listed buildings
- Loss of section of historic wall bordering the site
- Concern that relocating telegraph pole could damage listed barn
- No archaeological survey was carried out during clearance works
- Removal of stone wall and earthworks is causing collapse of listed barn adjacent to site

Transport

- Insufficient parking and no visitor spaces
- No dedicated turning head
- Visibility restricted along Edginswell Lane and there are no pavements
- Insufficient information to determine whether buildings inside site near to access would restrict visibility
- Plans don't accurately show sight lines for visibility
- Increased traffic volumes
- New hazard involved with vehicles turning off and into Edginswell Lane
- Site opposite P&PP Lifts, which is already hazardous
- Traffic noise fumes and dust
- Site access remains unsafe
- Vehicles parked on Edginswell Road already restricts visibility
- Any planning permission needs to have measures to restrict parking on both sides of the access

Ecology

- Ecology survey doesn't capture wildlife that was present prior to clearance works
- Conditions needed to secure bat and bird boxes and hedgehog runs
- Effect on colony of lesser horseshoe bats at Higher Court Farm

Trees

- Clearance works have resulted in loss of trees and damage to tree roots
- Root protection for Oak and Monterey Pine trees
- Proposed gardens should not encroach over tree roots and conditions needed to prevent provision of any further buildings in gardens to avoid damaging roots
- Condition needed so that any new trees that die within 5 years are replaced
- Clearance works and tree removal means that there has been biodiversity net loss
- Effect on birds and other wildlife
- Submitted Arboriculture Impact Assessment doesn't identify that site is covered by a TPO, that site has been cleared of trees or need for protection for trees on northern boundary of site.

Infrastructure

- Concerns about sewer capacity

Flooding

- Surface water runoff from the site blocks roadside drains
- Existing problem with flooding from the site

Subsidence

- Presence of sink holes within valley
- Steep bank on border with no. 4 Edginswell Lane could collapse.

OTHER ISSUES

- Construction disruption
- Clearance of protected TPO trees
- Removal of historic wall and creation of new access without permission
- Road damage
- Revised application should not have been allowed to be submitted
- The applicant has signed a deed of contract with the Council for development of the site
- Site boundaries inaccurate as regards no. 3 Edginswell Orchard and Woodlands.
- Potential impact on stability of earth bank along northern edge of the site.

Officer note: Any damage to Edginswell Lane would be a civil matter between the highway authority and driver. Officers do not generally allow submission of revised plans during the determination of a “minor” planning application and will normally determine the application within the 8 week statutory deadline for minor applications. Officers can however choose to do this, albeit on an exceptional basis. Given the previous refusals at the site officers took the view that it was appropriate to allow the applicant to submit revised highways information and plans in order to give the applicant the best chance of being able to overcome the various challenges associated with the proposals. The determination period for the application has now stretched to well over a year. Officers acknowledge that this is far from ideal, and it is very unlikely that officers would follow this approach again. Nevertheless, officers do not believe that any procedural irregularity has occurred here. Officers are not aware of any “deed of contract” signed between the applicant and the Council. Lastly, if planning permission is granted, the applicant will need to resolve any boundary dispute issues and any damage that may be caused to the earth bank along the northern edge of the site with the parties concerned. Again, this is a civil matter; officers cannot consider this in determining the application.

Relevant Planning History

DE/2015/0458 Residential development PRE-APPLICATION ENQUIRY

P/2019/0750 Outline application for the formation of 5no. dwellings for access and layout. WITHDRAWN

DE/2019/0103 Residential development of 5 dwellings. PRE-APPLICATION ENQUIRY

P/2020/0929 Construction of five dwellings including access, parking and associated works. REFUSED

P/2021/0809 Formation of 5 dwellings including access, parking and associated works. REFUSED / APPEAL DISMISSED

Planning Officer Assessment

The key issues to consider in relation to this application are:

1. Principle of Development
2. Future Growth Areas
3. Housing Supply
4. Sustainable Development
5. Visual Impact
6. Impact on Heritage Assets
7. Amenity
8. Highways and Movement
9. Access
10. Parking
11. Ecology
12. Trees & Hedgerows
13. Ground Stability
14. Flood Risk & Drainage
15. Water Management
16. Climate Change

1. Principle of Development

The proposal seeks permission for “Formation of five dwellings with on-site parking, access roadway, landscaping and detached residents' storage and refuse 'barn'. Re-establishment of orchard included in

project (plans amended 25 April 2024)". There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Future Growth Areas

Policy SS2 of the Torbay Local Plan sets out that a Future Growth Area is proposed at Edginswell. The Torquay Gateway (Edginswell) Masterplan shows on pages 24-25 illustrative maps that identify land near to the site potentially suitable for some limited future development: Policy TS2 of the Torquay Neighbourhood Plan sets out that Major development proposals within the town centre and Torquay Gateway areas will be supported where they contribute to meeting the objectives of the Torquay Neighbourhood Plan for these areas and they conform to the area wide Master Plans adopted by the Council as SPDs where those masterplans are in compliance with the policies of this Plan. Policy TH6 states that development proposals within the Edginswell Future Growth Area should be developed with consideration of the immediate surrounding communities of Shiphay, the Willows and Barton. Opportunities to provide transport connectivity as well as complement, augment and/or support the provision of community facilities and primary schools which serve the wider area are important considerations for creating an integrated sustainable community.

The Masterplan states on page 24 that:

“Edginswell Valley Proposal

4.10 Edginswell Valley Concept Plan and Illustrative Masterplan

Proposal 4.10 Edginswell Valley Concept Plan and Illustrative Masterplan Figure 13 shows the concept plan and Figure 14 shows the illustrative masterplan. This delivers circa 550 homes and 19000 sq metres of employment land, and has been designed to reflect the design intent identified in the following headings;

- Retain Edginswell Hamlet as a distinctly separate settlement
- Allow for some additional development in Edginswell Hamlet that respects the ‘Hamlet’ character
- Provide footpath & cycle access between the two areas ...”

The Masterplan makes it clear that a connecting link should be provided through the site to facilitate a future proposed walking and cycle link connecting development within the Valley to Edginswell Lane. The application provides for this link and the layout of the route is direct and legible. The access through the site and onwards to the valley should be secured as a bridleway with a public right of access so that access is not potentially impeded in the future. The Inspector found, in dismissing the appeal for refused application P/2021/0809 that:

“35. Connectivity along the Edginswell Valley is an important component of the SPD and for achieving a successful overall development for this identified Growth Area. As noted above, the appellant agrees with the Council that a cycle/pedestrian link should be provided through the appeal site. However, there is dispute between the main parties as to whether or not this matter should be dealt with by way of a planning condition or a section 106 obligation.

36. I note the Council’s argument that the proposed estate road should be adopted and that no ransom strip should occur within the appeal site that could frustrate the provision of the intended cycle/pedestrian link through the site. It would be unfortunate if this link did not materialise. The Framework, amongst other things, advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

37. If the intended cycle/pedestrian link was not provided through the appeal site this would frustrate important planning objectives. However, I see no reason why a suitably worded planning condition could not be used to secure the provision of this important facility. Such a condition would enable the development, in so far as it relates to a cycle/footpath link, to satisfy the provisions of LP policy SS2 and NP policies TS2 and TH6”.

With the above in mind, if planning permission is granted then officers will suggest the use of a planning condition to secure the provision of the pedestrian/cycle link to be kept in place for the lifetime of the development.

Officers therefore consider that the proposal is in accordance with Policies SS2, TS2 and TH6.

3. Housing Supply

Policy H1 of the Local Plan states that proposals for new homes within the built up area will be supported subject to consistency with other Policies and that proposals for new homes on unallocated sites will be assessed according to a range of criteria proportionate to the scale of the proposals.

The Council cannot demonstrate a 3 year housing land supply.

The Government published the most recent Housing Delivery Test in December 2023. Torbay's result is 55% (i.e. between 2019-22 there were only 55% as many completions as the number of homes required). This means that Torbay must apply the presumption in favour of sustainable development in paragraph 11 of the National Planning Policy Framework (the NPPF). Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall.

The Development Plan (i.e. the Local Plan and the relevant Neighbourhood Plan) is the legal starting point for determining planning applications, and proposals should be assessed against it. A judgement should be made as to whether a proposal is in compliance with the Development Plan (when taken as a whole). Where the Development Plan is out of date, it retains its statutory force, but the focus shifts onto other material considerations particularly the NPPF and presumption in favour of sustainable development. Material considerations such as the Housing Delivery Test state that the presumption should be applied. Whilst government guidance pulls in somewhat different directions, there is a clearly stated government objective of boosting the supply of housing. Policies SS3 and SS13 of the Local Plan also set out a presumption in favour of sustainable development separately to the NPPF. There is a pressing need for housing in Torbay. Accordingly, it is recommended that the presumption in favour of sustainable development is applied to applications involving the provision of housing.

It is important to note that the presumption cannot lawfully be treated as a sanction. Planning decisions must be made in the public interest, balancing all the relevant factors. Operation of the presumption gives greater weight to the provision of housing in the planning balance. The NPPF (11(d)i) indicates that permission should be granted unless either (i) conflict with specific Framework policies may constitute clear reason for refusal (these are set out in footnote 7 and include, SSSI, Local Green Space, National Landscapes, irreplaceable habitats, designated heritage assets (including archaeology) and areas at risk of flooding or coastal change); or (ii) any adverse impacts of approving a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole (i.e. the "tilted balance" at 11(d)ii). Development plan policies are taken into account when assessing whether the harm caused would "significantly and demonstrably" outweigh the benefit.

The proposal would help to address the need to provide a range of homes and would contribute to housing delivery through the addition of five new houses. However, in this case, officers consider that the proposal would conflict with a number of key policies within the Development Plan and that the associated harm would significantly outweigh the benefits.

The proposal is therefore considered to be contrary to Policy H1 of the Torbay Local Plan.

4. Sustainable Development

Paragraph 11(c) of the National Planning Policy Framework states that "For decision-taking [sustainable development] means: c) approving development proposals that accord with an up-to-date development plan without delay"; Policy SS3 of the Local Plan states that planning applications that accord with policies in the Local Plan and Neighbourhood Plans will be approved unless material considerations indicate otherwise. Policy TS1 of the Torquay Neighbourhood Plan states that development proposals should accord with the policies contained in the Torquay Neighbourhood Plan, where relevant, unless material planning considerations indicate otherwise. Policy SS11 of the Local Plan sets out that development will be assessed against its contribution to improving the sustainability of the existing communities within Torbay, and that proposals that regenerate or lead to the improvement of social, economic or environmental conditions, particularly within Community Investment Areas (CIA), will be supported in principle.

Officers consider that the proposed development would have a neutral effect on the sustainability of the existing Edginswell hamlet as regards Policy SS11. The site is not in a CIA. The proposals would provide five high quality family homes. Officers do not consider that this of itself would significantly enhance or detract from the sustainability of the existing community within Edginswell.

In this case, officers consider that the proposals would conflict with a number of key policies in the Local Plan and Torquay Neighbourhood Plan as set out below under VISUAL IMPACT and IMPACT ON HERITAGE ASSETS.

The proposal is therefore considered to be contrary to Policy SS3 of the Torbay Local Plan and Policy TS1 of the Torquay Neighbourhood Plan.

5. Visual impact

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 DE4 states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. Further, that new development should be constructed to the prevailing height (the most commonly occurring height) within the character area in which it is located, unless there are sound urban or socio economic benefits to justify deviation from this approach. Policy TH2 of the Torquay Neighbourhood Plan sets out that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion. Policy TH8 of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The proposal is for five new houses either side of a large, shared courtyard. Three houses on the north side of the site (units 1-3) would be arranged in a short terrace to form a "barn". The two houses on the south side of the site (units 4-5) would be semi-detached and designed to provide a "farmhouse". Officers understand that the proposed housing has been designed in this way in order to reflect a group of listed barns and a listed farmhouse to the south of the site.

Officers met with the applicant on 27/06/23 (via Teams) to discuss the proposals originally submitted with the applicant in respect of access and heritage (including the wall bordering the site) following negative consultee responses and neighbour objections. The applicant has since provided several rounds of information in relation to the access and provided revised plans for units 1-5 on 25/04/24. A second public consultation was carried out on these revised plans.

The revised plans differ from those originally submitted in that the position of the access into the site from Edginswell Lane has been moved further to the north to improve visibility. Additional planting has been provided along site boundaries to provide enhance screening. The proposed residents orchard has been expanded in area slightly. Some minor changes have been made to the layout of the back gardens for units 1-3. Small front garden areas originally proposed for units 1-5 have been replaced with small planters.

The ridge of units 1 and 2 has been reduced in height from approximately 7.9m to 7.5m. Glazing in the front and rear elevations of units 1 and 2 has been significantly reduced, particularly at first floor level, with previously proposed full height floor to ceiling windows replaced with more conventionally sized windows. The front and rear and side elevations of units 1 and 2 were originally proposed to be almost entirely clad in vertical timber cladding. The revised plans show all elevations now being largely faced with random rubble stone to better match the appearance of the listed barns at Edginswell Farm. The roof covering for units 1 and 2 remains standing seam zinc, of a colour to match the corroded corrugated iron roofs of the listed barns at Edginswell Farm. However, the original half hip design of the roof on its east side (facing Edginswell Lane) has been altered to more of a full hip design, again to attempt to match the appearance of the barns at Edginswell Farm.

Unit 3 has been substantially re-modelled. As designed originally, unit 3 had an identical appearance to units 1 and 2, resulting in a monolithic block type appearance to all three units. The revised design now deliberately introduces a design for unit 3 that contrasts with the appearance of units 1 and 2.

The ridge of unit 3 has been increased in height from approximately 7.9m to 8.15m. The roof design has been changed from a half hip design (at its western end) to gable ends on both sides. The roof covering has been altered from standing seam zinc of the same colour as units 1 and 2 to natural slate. Glazing in the front and rear elevations has again been significantly reduced, again particularly at first floor level. In contrast to units 1 and 2, unit 3 would be clad entirely with vertical timber cladding.

The design of units 4 and 5, forming the “farmhouse” at the site remains largely unchanged from the plans originally submitted. The most significant changes are that the roof covering for both units has been altered from standing seam zinc to natural slate and that, whereas the plans submitted originally showed the walls (front rear and sides) of units 4 and 5 being clad in random rubble stone, the revised plans now show the front, rear and sides of the building clad in rough cast render in a light colour. The two chimneys on either side of units 4 and 5 would remain clad in random rubble stone.

The position of units 1-5 remain unchanged, with units 1-3 forming a “barn” unit approximately 40m from Edginswell Lane at the eastern side of unit 1 and 73m from Edginswell Lane at the western end of unit 3 and in the region of 9.8m to 8m away from the northern boundary of the site. The combined footprint of units 1-3 remains at approximately 240sqm (including the single storey utility rooms at the rear of each unit).

The positions of units 4 and 5 also remains the same, with the eastern end of unit 5 being approximately 58m from Edginswell Lane and the western end of unit 5 being approximately 81m from Edginswell Lane and in the region of 7m away from the southern boundary of the site. The combined footprint of units 4 and 5 remains at approximately 190sqm (again including the single storey extensions for each unit at the rear of the site).

A bin store/general store between the eastern edge of unit 1 and Edginswell Lane would remain in place. A small “orchard” between the bin store/general store comprising “new specimen trees” has been increased in size from five rows of three trees (i.e. 15 in total) to six rows of three trees (i.e. 18 in total).

Officers consider that the revised appearance to units 1-3 in particular represents a significant improvement on the original design. Officers consider that the difference in roof heights and designs between units 1 and 2 and unit 3 and the changes to the materials pallet and roof designs that have been made introduce a new level of visual interest to the site and help to break up the somewhat monolithic appearance of units 1-3

Unfortunately, despite the clear progress to the design of the site that has been made, officers are still not able to support the proposals for the reasons set out below.

The proposed housing and layout

In dismissing the appeal for P/2021/0809 the Inspector found that:

“17. I recognise the attempt made by the appellant’s architect to incorporate some locally distinctive features into the finish of the proposed buildings and the proposed reinstatement of a section of roadside wall. However, the extent of the new buildings, hard surfaced areas, as well as the wide new access road that would carve through the centre of the site, would seriously erode the green, unspoilt open qualities of the site. Moreover, the layout of the new estate road with semi-detached and detached houses, together with the entrance radii, low roadside walls and the arrangement of the fruit trees [footnote10: The planting arrangement would be very different to the spacing and ‘grid formation’ of a traditional orchard], would have a suburban character that would contrast awkwardly with the adjacent listed buildings”.

The Inspector went on to say that:

“24. The unspoilt, green open qualities of the appeal site form an attractive part of the countryside around Edginswell and are an integral part of Edginswell Valley. Housing development on the appeal site would erode these qualities and the countryside setting of Edginswell. This would have an adverse effect upon the character and appearance of the area.

25. However, this valley has been identified within the development plan as being appropriate for accommodating necessary major growth. As noted above, the SPD and illustrative masterplan for the area also identify the appeal site as suitable for some new housing. Some adverse effect upon the character and appearance of the area is therefore inevitable in order to meet the housing requirements of Torbay, as set out within the development plan.

26. In releasing land such as the appeal site for housing, the development plan and the SPD also require new housing to be designed to a high standard, developing a distinctive character and, in the case of the appeal site, be sympathetic to the “Hamlet character”. I have already found above that some elements of the proposal would have a suburban character. This would not be sympathetic to the distinctive qualities of Edginswell or its “Hamlet character”.

27. The style and design of the proposed houses, including the height, scale and bulk, would not be too dissimilar to the Edginswell Orchard development alongside. It is not unreasonable for the appellant, especially given remarks made on her behalf in respect of an absence of design direction from the Council, to take this as a measure of what the Council is seeking to achieve.

28. It is beyond my remit to provide design guidance. Nevertheless, the style and design of the proposed houses would have little, if anything, in common with the distinctive qualities and the identity of the neighbouring traditional buildings. The access road also appears somewhat excessive/‘over engineered’ and with limited space for any meaningful ‘replacement’ tree planting. The proposal would detract from the character and appearance of the area”.

On balance, and notwithstanding the progress that has been made in terms of the design of units 1-3 officers consider that the current proposals amount to the overdevelopment of the site.

Having seen a number of design iterations in both the current application, and preceding applications, officers consider that it is unlikely that there is sufficient space for five dwellings of the scale currently proposed to sit comfortably within the site. All of units 1-5 significantly exceed Nationally Described Space Standards (see AMENITY below) and it appears that smaller units, or fewer units built to the same scale as the existing proposed units 1-5, would be more likely to provide a successful and attractive layout.

The current proposal turns all of the ground between the two proposed blocks over to hardstanding (excepting some very small planters outside of the fronts of the proposed housing). Officers consider that this, in combination with the proposed access driveway, would detract significantly from the green and open quality of the site to an unacceptable degree.

As noted above, in dismissing the appeal for P/2021/0809 the Inspector noted that:

“17. ...the extent of the new buildings, hard surfaced areas, as well as the wide new access road that would carve through the centre of the site, would seriously erode the green, unspoilt open qualities of the site. Moreover, the layout of the new estate road with semi-detached and detached houses, together with the entrance radii, low roadside walls and the arrangement of the fruit trees [footnote10: The planting arrangement would be very different to the spacing and ‘grid formation’ of a traditional orchard], would have a suburban character that would contrast awkwardly with the adjacent listed buildings]”

And that:

“24. The unspoilt, green open qualities of the appeal site form an attractive part of the countryside around Edginswell and are an integral part of Edginswell Valley. Housing development on the appeal site would erode these qualities and the countryside setting of Edginswell. This would have an adverse effect upon the character and appearance of the area”.

Notwithstanding the clear efforts that have been made to reflect the appearance of the adjacent listed buildings in the design of the proposed new houses officers consider that the scale height and massing of the proposed new housing is out of character with the semi-rural hamlet appearance of Edginswell Lane in the immediate vicinity of the site.

Officers consider that, despite the various design iterations that have been advanced over the years, the current proposals are still largely urban in character. The proposed new dwellings would have very small front garden areas and would have relatively small back gardens. As noted above, all of the space in between the two blocks would also be turned over to hardstanding and vehicle movements. Officers consider that this would necessarily give the proposed housing layout a modern urban appearance at odds with the semi-rural appearance of the wider area, and that the existing green open quality of the site would be compromised to an unacceptable degree as a result.

Officers remain concerned about the appearance of units 4-5. As noted below under IMPACT ON HERITAGE ASSETS officers consider that the over-domestic approach to these plots and the introduction of an additional building type with an additional material palette would be harmful to the significance of the identified heritage assets and would confuse the clear narrative and hierarchy of adjacent historic development of a singular principal farmhouse (the existing listed building) and its relationship with surrounding ancillary agricultural structures.

The submitted proposed section drawings show that ridges of units 2 and 3 would be set down approximately 7.9m from the ridge of Orchard Barn within the Edginswell Orchard site to the north of the site. The ridge of Units 4 and 5 would, however, be in the region of 3-5m above the ridges of the listed structures at Edginswell Farm to the south. Officers consider that the proximity of units 4 and 5 to the listed buildings at Edginswell Farm means that this proposed roof height means that units 4 and 5 would appear incongruous in relation to them.

A street scene drawing has not been included with the application. Officers have queried this with the applicant and while no street scene drawing has been submitted the applicant has provided CGI imagery which suggests that the proposed housing would be unlikely to be substantially visible from Edginswell Lane.

Officers are nevertheless mindful that a bridleway would run through the site connecting Edginswell Lane with the Future Growth Area, and so clearly, the proposed housing units would be fully visible from the public domain.

Officers have carefully considered the existing development at Edginswell Orchard to the north of the site which resembles in some respects the current proposals. Edginswell Orchard appears to have been granted planning permission in 2010 and comprises four large houses with garages arranged in a U shape around a central courtyard that is completely covered with pavements. Notwithstanding the similarities between the site under consideration here and the Edginswell Orchard site, the latter is largely screened from view from Edginswell Lane and is only substantially visible from the road providing access to it from directly outside. In contrast to the current site, the Edginswell Orchard site does not have a public right of way running through it (as the site under consideration here would have if consented i.e. making it more visible to members of the public); and is not in close proximity to the listed buildings at Edginswell Farm. It should also be remembered that the Inspector in dismissing the appeal for P/2021/0809 drew attention to the loss of green space associated with the proposals together with the overly suburban appearance of the design at that time. As set out above, officers consider that the current proposals would also erode the

existing green character of the site to an unacceptable degree and would also have an urban character at odds with the existing hamlet character of the Edginswell Lane in the vicinity of the site.

While it is clear that similarities between the existing Edginswell Orchard site and the current proposals exist, on balance, officers do not consider therefore that the Edginswell Orchard site provides a precedent for the current site such that it should be approved.

Separate to the layout, scale, form massing and appearance of the proposed units 1-5, the LPA believes that the boundary wall bordering the site, a substantial amount of which has already been demolished and lowered in height, is a listed structure as it adjoins one of the listed barns to the immediate south of the site. The applicant does not agree with this assessment (see IMPACT ON HERITAGE ASSETS below for further details).

Approximately 21m of the existing/pre-existing boundary wall either side of the proposed new access would be rebuilt or lowered in height to 60cm so that drivers leaving the site would be able to see over it.

Officers consider that the reduction in the height of the wall would necessarily reduce the existing sense of enclosure to the site. Officers have made it clear that the principle of reducing the height of the wall might be capable of being supported when weighed against the benefits that an acceptable housing scheme would bring i.e. new housing and a bridleway through the site connecting the Edginswell Growth Area with Edginswell Lane, but that the application would need to include an assessment of the impacts of the wall being removed/lowered in height in the context of the associated heritage impacts. The applicant has provided an Addendum to the submitted Heritage Assessment which maintains that the wall has no listed status but which also describes it as being a non-designated heritage asset. The LPA does not agree with this assessment and maintains that the wall is a listed structure. In the absence of a heritage assessment that identifies the wall as being a listed structure, or which allows for the possibility that the wall could be a listed structure, officers cannot therefore support the principle of altering the wall to create visibility splays at this point in time in relation to the visual impact that this would have (although this position could change if the afore mentioned assessment were to be provided).

With the above in mind, given the siting, scale, and design of the proposal it is considered that the proposal would result in unacceptable harm to the character or visual amenities of the locality.

The proposal is therefore considered to be contrary to Policies DE1 and DE4 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

6. Impact on Heritage Assets

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 205 of the National Planning Policy Framework (NPPF) states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Planning Practice Guidance states that "The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting".

Policy SS10 of the Local Plan states that development proposals that may affect heritage assets will be assessed in view of their impact on listed and historic buildings and their settings. Policy HE1 also states that development proposals should have special regard to the desirability of preserving any listed building and its setting.

The site is not in a Conservation Area. However, it is adjacent to and within the setting of a group of Grade II listed buildings to the immediate south known as Edginswell Farm.

As set out above, the Council's Principal Historic Environment Officer has set out that:

"... issues remains with the proposals for both plots 4 and 5, with regards to their position within the site and the chosen design approach to reference a 'farmhouse'. The over-domestic approach to these plots, the introduction of an additional building type with an additional material palette would be harmful to the significance of the identified heritage assets and would confuse the clear narrative and hierarchy of adjacent historic development of a singular principal farmhouse (the existing listed building) and its relationship with surrounding ancillary agricultural structures. It is considered that a more successful design approach which would potentially limit the harm caused to the identified designated heritage assets would be to continue the architectural language used for plots 1-3 and to explore the use of an 'L-shaped' form of development within the NW corner of the site which wraps around a central yard. This would allow the southern area of the site, which is considered to be the one of the most sensitive with regards to the setting of nearby heritage assets to be free of built development to provide a more substantial landscape buffer to the group of listed buildings. This would likely require a reduction in the quantum of proposed housing from 5 to 4 and would require significant alterations to the current proposals...."

Officers agree with this assessment and consider that the proposals; in particular units 4 and 5, would result in unacceptable harm to the setting of the Grade II listed buildings at Edginswell Farm.

As such the proposals, would amount to less than substantial harm to the designated heritage assets comprising the listed buildings at Edginswell Farm to the immediate south.

Officers recognise that the proposals involve five new houses and would help to address the current housing shortfall within Torbay. Also, that the proposals would provide the head of a bridleway connecting the Edginswell Future Growth Area to Edginswell Lane and that construction would create jobs for local people. However, officers do not consider that these public benefits are sufficient to outweigh the harm that has been identified.

Officers have also considered a section of boundary wall bordering the site alongside Edginswell Lane has been partially removed without listed building consent as well as a part of the wall which has been lowered in height, again without consent.

The applicant has argued that the wall is not listed. Paragraph 3.6 of the submitted Access and Design Statement states that:

"A low random rubble stone wall extends northwards from the point of access while only a small fragment of this wall remains abutting the Listed barns to the south-east".

The submitted Heritage Assessment states at paragraph 1.5 that:

"The boundary wall to Edginswell Lane

1.5 In the decision notice to the planning appeal (reference APP/X1165/W/21/3287683) for the most recent application for the site (Torbay Council reference P/2021/0809; see also Section 1.10 below) the Inspector noted public concerns over previous partial demolition of the boundary between the site and Edginswell Lane. Similar concerns had not previously been raised by Torquay Council in this or previous applications. No works are proposed to the boundary wall as part of the current scheme, and the status of the wall is therefore not considered further within this document".

The extract from the submitted heritage assessment above appears to be incorrect in so far as it states that “no works are proposed to the boundary wall as part of the current scheme” whereas the submitted plans show a section of 21m of the wall either being rebuilt or lowered in height.

As noted above, a recently submitted Addendum to the Heritage Assessment states that the wall is not listed but that it is a non designated heritage asset. The Addendum states that

“... the scheme also includes rebuilding a length of the removed boundary wall adjacent to the new entrance. This will be a heritage benefit offsetting the harm caused by the creation of the new entrance. Additionally, the design of the new entrance includes additional stone walling to the splays creating a sensitive approach into the development from the highway.

The works involve the removal of a short length of wall, impacting part of its architectural and historical illustrative values. However, this specifically relates to the length of wall to be removed, and these values in relation to the rest of the wall will not be impacted. Additionally, there will be no impact to its historical associative value or its setting, as the history of the site remains unaltered, as does the topographic and physical relationship of the wall with the highway and Brends Orchard. The restoration of the removed length of wall will enhance these heritage values”.

The Inspector found, in refusing application P/2021/0809 that:

“4. Interested parties have drawn my attention to access works at the entrance to the appeal site. Photographic evidence has also been submitted which shows a section of roadside (traditional stone) wall (attached to the Grade II listed calf house immediately adjoining the site) removed. The removal of this section of roadside wall would almost certainly require listed building consent. I am unaware of any accompanying listed building appeal and there is no information before me to indicate that any such application has been made”.

And

“15. Photographic evidence also indicates that the section of roadside wall that previously extended across part of the frontage of the site was a traditional feature that provided a pleasing sense of enclosure to the adjoining listed former calf shed, as well as to this part of Edginswell Lane. This wall also appears to have contained some important historic fabric and made a positive contribution to the significance of this adjoining listed building”

Officers have checked the file for P/2021/0809 and this does include photographic evidence of a wall running off of the side of the listed barn closest to the site and it is clear that a section of it has since been removed.

The Council’s Principal Historic Environment Officer has reviewed the Addendum supplied and has advised that:

“...As the updated assessment suggests, the level of harm caused by the loss of the section of walling should be weighed against the public benefits of the scheme. I would advise that this would cause a low level of ‘less than substantial’ harm which should be included with the other heritage harm identified – this would add further weight to be assessed against the public benefits of the scheme as the NPPF requires. The general duty for LPAs as respects listed buildings in exercise of planning functions will also be engaged which affords special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses ...”.

While there may be scope to accept the alterations to the wall, which the LPA considers to a listed structure, that have already been made, and any future alterations that may be needed to create the access and visibility splays to the proposed development, the LPA does not consider that the applicant has provided sufficient information with the application to enable any such assessment to be carried out.

As above, the status of the wall was raised with applicant through the Inspector's decision (P/2021/0809) and also at the meeting held with the applicant on 27/06/23 and through subsequent correspondence.

Officers consider that the application of policies in the Framework that protect heritage assets in relation to the harm to the setting of listed buildings and the loss of the listed boundary wall provide a clear reason for refusal and consequently the presumption in favour of development is disapplied (i.e. the "tilted balance" at 11(d)I of the National Planning Policy Framework).

With the above in mind officers therefore consider that the proposal is contrary to Policies SS10 and HE1 of the Torbay Local Plan.

7. Amenity

Policy DE3 states that development should provide a good level of amenity for future residents or occupiers and should not impact upon the amenity of neighbouring uses with reference to criteria including, noise, nuisance, visual intrusion, overlooking, and privacy, light and air pollution and the scale and nature of the proposed use where this would be overbearing. Policy THW4 of the Torquay Neighbourhood Plan states that new houses should have at least 20sqm of usable outdoor amenity space. Policy W1 of the Local Plan sets out that development proposals will be expected to make provision for the appropriate storage, recycling, treatment and removal of waste likely to be generated.

Amenity for future occupiers

- Unit 1 would have a Gross Internal Area(GIA) of approximately 129sqm with three double bedrooms and approximately 92sqm of usable outdoor amenity space.
- Unit 2 would have a Gross Internal Area(GIA) of approximately 129sqm with three double bedrooms and approximately 72sqm of usable outdoor amenity space.
- Unit 3 would have a Gross Internal Area(GIA) of approximately 130sqm with three double bedrooms and approximately 122sqm of usable outdoor amenity space.
- Unit 4 would have a Gross Internal Area(GIA) of approximately 159 sqm with three double bedrooms and one single bedroom and approximately 108sqm of usable outdoor amenity space.
- Unit 5 would have a Gross Internal Area(GIA) of approximately 159 sqm with three double bedrooms and one single bedroom and approximately 112sqm of usable outdoor amenity space.

All five units far exceed Nationally Described Space Standards (which call for a three bedroom, six person new dwelling arranged over two floors to have a GIA of 102sqm and a four bedroom, seven person dwelling arranged over two storeys to have a GIA of approximately 124 sqm) and would provide far more than the 55 sqm of outdoor amenity space for new houses recommended by Policy DE3 and the 20sqm identified in Policy THW4.

Outlook from the proposed new houses appears to be acceptable. Units 3 and 4 are approximately 18m apart from each other which is less than the 21m generally considered to be acceptable, but officers do not consider that this amounts to a reason for refusal here (i.e. through overlooking into habitable rooms).

A communal bin store is identified on the plans. SWISCO, which provides waste management services for the Council, has advised that

“ I note that the developer now proposes to build the road to adoptable standards and that it will be subject to a Section 38 agreement. Should the adoption of the highway not progress, a formal indemnity arrangement will be required before SWISCO would drive onto the site to complete collections. This will mean that each dwelling will be provided with individual recycling and waste containers, to be stored within

the curtilage of their own property and presented adjacent to the adopted public highway for collection. I believe that there is adequate space at each property to store waste containers, although I would expect the storage location and the collection point to be shown on submitted plans, to prove compliance with Building Regulations H6. I note the swept path analysis for the refuse collection vehicle, which has been submitted, but I cannot see how our collection vehicles will be able to turn on the adopted highway before leaving the site in a forward gear. Our collection teams would not reverse either on to nor off the site to complete collections and will require a sufficient turning head within the development ...”

Notwithstanding the above comments from SWISCO, the submitted swept path analysis drawings do show that a large refuse vehicle would be able to enter and leave the site in a forward gear. As noted above under PARKING below, conditions would be needed to ensure that the identified turning head at the site was marked out on the ground to prevent residential vehicles from parking within it.

As discussed under ACCESS below, officers consider that a Grampian condition could be used to require the installation of double yellow lines prior to the commencement of development at the site to ensure that the driver of a refuse vehicle (and other vehicles) would be able to see approaching vehicles before exiting onto Edginswell Lane.

Neighbour amenity

Objections have been made that the new houses would overlook, and be overlooked by, neighbouring properties; however, the closest properties to the site (to the north) would be approximately 22m-35m from the backs of units 1-3. Officers consider that this is an acceptable separation distance.

Officers consider it unlikely that any other significant neighbour impacts would occur.

Given its siting, scale, and design, it is considered that the proposal would provide future occupiers with a good standard of living and not result in any unacceptable harm to the amenities of neighbours.

The proposal is therefore considered to be in accordance with Policies DE3 and W1 of the Torbay Local Plan and Policy THW4 of the Torquay Neighbourhood Plan.

8. Highways and Movement

Policy TA1 of the Local Plan sets out the importance of sustainable transport and improving road safety. Policy TH6 of the Torquay Neighbourhood Plan sets out that Development proposals within the Edginswell Future Growth Area should be developed with consideration of the immediate surrounding communities of Shiphay, the Willows and Barton. Opportunities to provide transport connectivity as well as complement, augment and/or support the provision of community facilities and primary schools which serve the wider area are important considerations for creating an integrated sustainable community.

Advice from Torbay Highways dated 11/06/24 states that:

“Onsite Design

2.6 The following was stated in the previous Highway Authority response:

“... It is stated within the ‘Response to Highway Authority Comments’, dated April 2024, that “the access road is now designed to adoptable standards and will be subject to a Section 38 Agreement”. This is welcomed.

2.7 This remains applicable, however it is requested that the applicant submits a plan which shows the provision of adoptable street lights along the internal access road as this is a key route for the adjacent future growth area. Once this is submitted, the Highway Authority will recommend a condition that the proposed active travel route through the site to the growth area will remain clear and maintained until

adopted. The condition will also state that the highway details submitted which must accord with adoptable standards”.

The applicant has since provided a street lighting plan, which Highways have assessed as being acceptable.

With this in mind officers consider that the proposal is in accordance with Policy TA1 of the Torbay Local Plan.

(Note: officers do not consider that the location of the proposed development, or its scale, warrants refusal in relation to Policy TH6. Officers do not consider that the proposals, if granted permission, would affect the communities of Shiphay, the Willows or Barton).

9. Access

Policy TA2 of the Local Plan states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety and that schemes which require new access to/from the highway network will be supported where they provide vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility.

The proposed site access is constrained and would be located on a narrow stretch of Edginswell Lane. The submitted plans show that an existing telegraph pole sited between the wall of a listed barn at Edginswell Farm and Edginswell Lane to the south would need to be relocated and that the existing boundary wall along Edginswell Lane either side of the proposed access would need to be reduced in height to 60cm in height so as not to impede visibility splays from the new access in either direction.

Advice from Torbay Highways dated 11/06/24 states that:

“In the most recent response to this planning application the Highway Authority opted to recommend a ‘prior to commencement’ condition to provide double yellow lines in order to ensure the proposed access junction can be accessed by larger vehicle turning north (i.e. fire appliance / refuse collection).

2.2 However, concerns have been raised that the condition may not be implementable, and the planning process needs to be clearer.

2.3 Therefore, the Highway Authority are now of the position that a drawing needs to be submitted that shows the double yellow lines northwards out of the site access junction. In the event the associated double yellow line TRO is not implemented, a second drawing is required that shows a build-out or other suitable design feature in the location of the TRO that will prevent car parking to the immediate north of the access [this would then need to be delivered via a S278 – the design must be in line with relevant standards]. This second drawing requires a swept path assessment to be submitted to demonstrate a large vehicle can turn out the site and safely route pass the build-out/ designed feature [Note to applicant: a RSA S1/S2 will be required at the S278 stage should the build-out / design feature be required]. Until the above details have been submitted, the Highway Authority are unable to confirm a safe access arrangement can be provided that accommodates larger vehicles and therefore wishes to raise an objection.

2.5 Once details are provided and found to be satisfactory, the Highway Authority will recommend a Condition which sets out the need for the implementation of the TRO or build-out/design feature option prior to use of the permitted development”.

The applicant has since provided a drawing showing double yellow lines outside the site as well as the alternative option for a build out. The Council does not support the principle of a build out (a buildout is a physical structure in the highway sometimes used to prevent parking or to slow traffic by narrowing the width of the road) due to the urbanising visual appearance that this would have on this section of Edginswell Lane.

As such, double yellow lines are needed to prevent people from parking within the visibility splay of the new proposed access.

The process for installing double yellow lines involves the production of a Traffic Regulation Order (TRO). The Council would need to advertise the proposed location of the double yellow lines and would need to take account of any responses in making a recommendation to Councillors as to whether double yellow lines should be installed.

As regards the certainty of the delivery of double yellow lines it should be noted that the applicant's Highways Engineer stated in an email dated 29/01/24 that:

“... To the left parked cars may obstruct the nearside edge of the road and in this situation visibility is only required to the centre of the road to account for approaching vehicles from that direction. Double yellow line parking restrictions is not necessary and would require a Traffic Regulation Order which cannot be guaranteed as it requires a separate administrative process which is likely to be objected to by the owners of the parked cars.” (emphasis added)

As can be seen the applicant's Highways Engineer considers that double yellow line parking restrictions are not necessary and has also acknowledged that the delivery of double yellow lines cannot be guaranteed.

Notwithstanding this, officers have considered whether a Grampian condition can be used to require the installation of double yellow lines prior to the commencement of development at the site. In order for a Grampian condition be used an assessment is needed of the likelihood of the TRO being confirmed. Officers have discussed this with Torbay Highways and understand that there is a high likelihood of a TRO being confirmed. An assessment is also needed as to the adverse consequences associated with displaced parking where the double yellow lines would be. Officers note that there is limited space for parking on the side of Edginswell Lane to the south of the site and a greater potential for parking to the north of the site up to approximately the point where the A380 crosses Edginswell Lane.

With the above in mind, while officers are aware that a Grampian condition requiring the installation of double yellow lines does involve some risk to the Council (i.e. in the event that a TRO could not be confirmed), officers consider that this risk is very low and that it is acceptable.

As noted above the geometry of the proposed access has already been agreed.

With the above in mind, officers therefore consider that the proposed access is in accordance with Policy TA2 of the Torbay Local Plan.

10. Parking

Policy TA3 and Appendix F of the Local Plan states that new residential dwellings should be served by two parking spaces and that a new parking space should be provided for every two new bedrooms. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking.

The proposed plans identify that the courtyard area outside of units 1-5 would be shared. The proposed Block Plan shows space for two vehicles outside of units 1, 3 and 4. Whilst the plans only show one vehicle outside units 2 and 5 there would clearly be enough room for a second vehicle to park outside both units without obstructing the swept path details that have been provided for a refuse truck.

If planning permission were to be granted, then planning conditions would be needed to ensure that spaces were lined on the ground or otherwise identified so that it would be clear to all future residents where they

would be allowed to park. Similarly, the turning head for refuse trucks/fire engines would also need to be identified in some way so that residents did not park within it.

With the above in mind the proposal is considered acceptable with regards to Policy TA3 of the Torbay Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

11. Ecology

Policy SS8 of the Local Plan sets out that all development should have regard to its environmental setting and should positively contribute to the conservation and enhancement of the natural assets and setting of the Bay. Policy SS9 of the Local Plan emphasises the importance of integrating new development with strategic green infrastructure and of providing high quality green space at a local level. Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE4 of the Torquay Neighbourhood Plan sets out that greenfield development should, where deliverable and viable, support the provision and/or enhancement of green infrastructure through the provision of green corridors and/or links to existing green infrastructure, to facilitate the natural movement of wildlife. Policy TE5 of the Torquay Neighbourhood Plan states that development of new homes, or a new commercial property on an unallocated site that could have an impact on a protected species or habitat must provide, as appropriate, an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Policy TE6 of the Torquay Neighbourhood Plan states that considering all stages of the construction process, all development within the Edginswell Future Growth Area or the Maidencombe area (including Sladnor Park) must have a Habitats Regulations Assessment as appropriate and be compatible with ecological requirements set out in the Habitats Regulations.

The site is within the Landscape Connectivity Zone for the South Hams Special Area of Conservation (SAC) with respect to Greater Horseshoe Bats.

A number of objections have been made in relation to ecology, including that the submitted ecological impact assessment is not valid since it assesses the site after it has been cleared. Also, that the proposals would have a negative effect on a nearby colony of lesser horseshoe bats and would involve a net habitat loss for flora and fauna.

The submitted ecological impact assessment report identifies that the site has limited ecological value, notwithstanding the presence of the nearby lesser horseshoe bat colony and recommends a variety of mitigation measures.

The report was prepared on 03/11/22 and so is still valid.

The report states at 6.3.1 that:

“It is highly probable that local bat populations forage and commute along the Site boundaries and although the Site boundaries are not considered to be a particularly important feature in the landscape, inappropriate lighting risks causing a barrier to foraging and commuting bats and may adversely affect the nearby lesser horseshoe bat roost. The Site boundaries will be kept dark for commuting and foraging bats and other nocturnal species, with a target illumination of <0.5 lux. This is especially important as there is a lesser horseshoe bat maternity roost present within 50m of the Site (to the north-east). The lighting scheme is based on principles set out in Guidance Note 08/18 Bats and Artificial Lighting in the UK (BCT/ILP, 2018):

The access road into the Site is not to be adopted, therefore there is no requirement for street lighting and light columns will not be installed ...”

Things have moved on since the report was issued and the current proposals do now propose the adoption of the road through the site. Torbay Highways advised on 11/06/24 (paragraphs 2.6 and 2.7 of corresponding advice note from WSP) that:

“2.6 It is stated within the ‘Response to Highway Authority Comments’, dated April 2024, that “the access road is now designed to adoptable standards and will be subject to a Section 38 Agreement”. This is welcomed.

2.7 This remains applicable, however it is requested that the applicant submits a plan which shows the provision of adoptable street lights along the internal access road as this is a key route for the adjacent future growth area.”

As above, the submitted ecological impact assessment emphasises the importance of limiting exterior lighting at the site so as to avoid disrupting bat foraging and assumes in drawings its conclusions that there will be no street lighting. However, as the road is now proposed to built to an adoptable standard Highways have identified that street lighting will be needed. Officers consider that this introduces an element of uncertainty about the proposals and that an update to the submitted ecological impact assessment would be needed to consider the location of the street lights that will be needed to bring the road up to adoptable standards and what type of lighting would be used”.

The applicant has since supplied a street lighting plan on 26/09/24 showing two lighting columns. A Senior Ecologist at Devon County Council commented on 04/09/24 that:

“ I haven’t had any further documentation regarding this application from the consultant ecologist. We spoke very briefly on the phone but I have not received any further information. It is highly likely that any street lighting for this development will not be acceptable from an ecological perspective given the presence of a lesser horseshoe bat roost adjacent to this site. That is one of the reasons why restrictions on lighting was so important – unless a full lighting strategy is submitted which evidences the introduction of street lighting will not impact upon this roost or bat commuting routes, I do not think I will be in a position to support the introduction of street lighting”.

And further on 26/09/24 in response to the submitted street lighting plan that:

“The plan is welcomed as it shows the location of the proposed lighting columns, but it still doesn’t provide any detail on the impacts of this lighting on ecology. As previously stated, a full lighting strategy which shows lux contours, along with comments from the consultant ecologist, is required for us to understand what impacts the integration of street lighting into this development will have on this site and crucially features used by light sensitive bat species known to roost in the locality. This plan is a good start, but does not go far enough to allow us to make a planning decision”.

Officers have queried these points with the applicant who advised on 01/10/24 both that:

“TC specifically requested that the road be adoptable in the event the cycle / footway up the valley is ever implemented. This is a consequence of TC’s Edginswell Masterplan and your aspirations for a sustainable travel corridor. It is not something that the applicant has specifically requested or designed. The natural consequence of this policy and TC’s requirement that the road be adopted is that street lighting is required. To suggest this is something the applicant has wilfully introduced at a later stage is a misrepresentation of the situation. We would much rather have an unadopted access road with no street lighting as the original application. This anomaly, therefore, only serves to highlight the contradictions in TC’s policy for the site but the emphasis seems to be on the applicant to resolve.

With regards your request to have detailed information submitted at this stage, we will of course endeavour to accommodate but in my experience this is at odds with other similar applications. I appreciate the date on which your email was sent but we were delayed by elongated original conversations between ecologists to establish the base requirements and brief such that we could respond with a suitable strategy. No one’s fault, just a reflection of the summer period and the involvement of several parties. We have done the best

we can but I'll keep on it and keep you abreast of any developments, notwithstanding your deadlines before Committee”.

And that:

“with regards lighting, the road was going to be adoptable (and therefore lit) for several iterations now in order to deliver the Active Travel Route and Torbay Council at the appeal recommended a condition to deal with a lighting strategy to tackle bat corridors (see attached) on that basis. Please remember it is the LPA who have planned for this Active Travel Route and the applicant is offering to deliver that public infrastructure to the Council gratis. Then having offered the free public benefit (notwithstanding that this development would not need the Active Travel Route to be acceptable in planning terms) and having agreed that a lighting condition was the approach at appeal, we are now faced with a level of detail (ie lighting design) that is normally addressed close to the point of installation”.

With the condition referred to being:

“Lighting

Prior to the commencement of development, a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The strategy will minimise indirect impacts from lighting associated with the pre-construction, during construction and operational activities, and demonstrate how the best practice (BCT/ILP, 2018) guidance has been implemented. This will include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with private residence. Such a scheme shall specify the method of lighting (if any) (including details of the type of lights, orientation/angle of the luminaries, the spacing and height of lighting columns/fixings), the extent/levels of illumination over the site and on adjacent land through the submission of an isolux contour plan and measures to be taken to contain light within the curtilage of the site. The development shall proceed in full accordance with the approved detail and no additional external or internal lighting shall be provided within the development at any time.

Reason: To secure an acceptable form of development in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and the advice contained within the NPPF”.

Officers have discussed these points with the Senior Ecologist at Devon County Council who has confirmed that:

“On reflection of the information submitted to the LPA in the form of the lighting strategy and the previous recommended conditions, I do now believe that sufficient information has been submitted to allow the LPA to better understand impacts on nocturnal wildlife. The introduction of two lighting columns is noted, but given the locations proposed and the number, it is believed that the detail of light spill can be secured as a pre-commencement condition, which will require the applicant to evidence how best practice guidelines have been followed with regards to bats and lighting, as well as how habitats which are likely used by bats are kept dark. Given this will be a pre-commencement condition, development cannot begin until that lighting information has been agreed with the LPA. We are aware of the lesser horseshoe bat maternity roost present to the north of the site, and will ensure that flight corridors for the species through the site are secured when discharging the pre-commencement condition”.

Also, that:

“Impacts to the South Hams SAC were screened out during my initial comments – no need for a HRA in this instance”.

With the above in mind the proposed development is considered to be in accordance with Policies SS8, SS9 and NC1 of the Torbay Local Plan and Policies TE4, TE5 and TE6 of the Torquay Neighbourhood Plan.

12. Trees and Hedgerows

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy TE3 of the Torquay Neighbourhood Plan states that Development on established woodland will not be supported unless it is related to the sustainable management of that woodland and/or improved public access.

The initial proposals were revised by a Senior Arboriculture Officer at the Council who advised that:

“The site is accessed of Edginswell Lane between a residential complex and a number of what appear to be farm buildings. The majority of the significant trees and shrubs are located around the periphery of the site with the central areas overgrown.

The units are located to the west of the site with the access of Edginswell Lane and associated parking for the 5 properties to the front of each of the properties.

The tree protection plan 1271.1.TPP indicates the location of the tree protection fence. The concern with the layout is the potential for the offsite trees (T2 and T3) to be perceived as dominant, leading to unwanted applications for tree removal or substantial pruning particularly of the Pine tree.

The landscape plan shows the planting of an orchard to create a strong feature at the entrance to the site - this is welcomed. The remaining planting does not adequately bolster the existing hedgerows or provide boundary treatments that would enhance the hedgerows. Although hedgerow enhancement is discussed within the ecological assessment it is not apparent on the submitted landscape information.

Conclusion

The site is not sustainable from an arboricultural or landscape planting perspective.

Recommendation

Provide further planting to bolster the existing hedgerows to include planting densities, sizes and maintenance. Assessment of potential dominance of units 1, 2 and 3 by trees off site trees 2 and 3”.

The most recent proposals have also been reviewed by a Senior Arboriculture Officer who has discussed the original comments with the author and has subsequently advised that these comments remain valid:

“ I have spoken with Dan and his comments remain unchanged. The Tree Dominance Plan indicates some limited consideration has been given to retained trees in third-party land. This should have been addressed with professional arboricultural input as part of an Arboricultural Impact Assessment. Issues which have not been addressed are future pressure (to fell or prune) due to perceived risk. On this basis, Dan's comments requesting additional information have not be satisfactorily addressed as part of the planning submission”.

The applicant has since provided an Arboriculture Impact Assessment (AIA) incorporating a Tree Protection Plan (TPP) prepared by a professional arboriculture consultancy.

The Council's Senior Arboriculture Officer has again reviewed this document and has observed that it contradicts the previously submitted Tree Dominance Plan in so far as the AIA asserts (and demonstrates) that there will be no impact on the root protection area of TPO trees T2 and T3 whereas note 5 of the Tree Dominance Plan refers to “any foundation work in RPA hand trowelled”.

Officers have queried this point with the applicant and have discussed the issue with Council's Senior Arboriculture Officer. Having done so, and on advice from the Arboriculture Officer, officers consider that the AIA and TPP are acceptable. If planning permission is granted then conditions can be used to ensure that the build is carried out in accordance with the recommendations in the AIA; that the protective measures identified in the TPP are put in place prior to the commencement of works, and that further planting details are provided in respect of proposed hedgerows and the proposed orchard.

The proposal is therefore considered to be in accordance with Policy C4 of the Torbay Local Plan.

Officer note: Officers are aware from neighbour objections and historic imagery that the site once had significant tree cover. This tree cover was removed prior to the existing area wide Tree Protection Order covering the site being introduced in 2021, and as such officers do not consider that the proposal is contrary to Policy TE3. The applicant did not need planning permission to clear the trees from the site before 2021.

13. Ground stability

Policy ER4 of the Local Plan states that appropriate investigations and that remedial/precautionary measures will need to be agreed with the Council and that developer will need to demonstrate that any identified or suspected ground stability issues will need to be overcome in order for development to proceed.

Objections have been made that there are sinkholes at the site and that the steep bank at the northern boundary of the site might collapse if the development were to proceed.

Officers have consulted the Council's Structural Engineer about the proposals who has advised that the Council does not have any geological concerns about the site. If planning permission were to be granted and works caused damage to the boundary bank with properties to the north, then that would be a civil matter for the parties to resolve between them.

The proposal is therefore considered to be in accordance with Policy ER4 of the Torbay Local Plan.

14. Flood risk and Drainage

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area. It is within Flood Zone 1 and is accompanied by a Flood Risk Assessment.

Objections have been made about existing issues with surface water flooding from the site entrance, and also the entrance to Edginswell farm to the immediate south onto Edginswell Lane and photos have been provided showing this.

Officers have consulted the Council's Drainage Engineer who has advised that

"... It is likely that the field is compacted and is acting as an impermeable area during heavy rainfall. This would explain the surface water run-off from the field onto Edginswell Road that is shown on the photographs supplied. Within the support documentation for the planning application the developer has identified that surface water drainage from the development will be discharged using infiltration techniques. By designing the surface water drainage for the development in accordance with the design standards the risk of flooding from the development site to Edginswell Road will be significantly reduced. ..."

As such, given the nature of the proposal, the intended means of surface water drainage (i.e. soakaways) are considered acceptable having regard to these comments and adopted Standing Advice. (This is for if it's over 20 square metres and they have ticked soakaways)

The proposal is therefore considered to be in accordance with Policy ER1 of the Torbay Local Plan.

15. Water management

Policy ER2 of the Local Plan sets out that development proposals must provide appropriate sewage disposal systems.

Objections have been made that the sewer serving Edginswell Lane is already at capacity and that raw sewage has emerged onto Edginswell Lane on a number of occasions.

South West Water is responsible for sewerage and commented on the initial proposals that "I can confirm South West Water has no comment or concern"

The proposal is therefore considered to be in accordance with Policy ER2 of the Torbay Local Plan.

16. Climate change

Policy SS14 of the Local Plan states that development will be required to minimise carbon emissions commensurate with their scale.

Officers consider that the proposal, which includes solar panels, double glazing and air source heat pumps, meets the aims of his policy.

The proposal is therefore considered to be in accordance with Policy SS14 of the Torbay Local Plan.

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/CIL

S106:

Not applicable.

CIL:

To be determined.

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

Not liable give the date of the submission.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that significant adverse impacts will arise from this development. As such it is concluded that the planning balance is against supporting this proposal.

Conclusions and Reasons for Decision

The proposal is considered unacceptable, having regard to the Local Plan, the Torquay Neighbourhood Plan and all other material considerations.

Officer Recommendation

Refusal for the following reasons.

REASONS FOR REFUSAL

Housing & Sustainable development

The proposal would help to address the need to provide a range of homes and would contribute to housing delivery through the addition of five new houses. However, the proposal would conflict with policies DE1, DE4, SS10 and HE1 of the Torbay Local Plan and policy TH8 Torquay Neighbourhood Plan (the Development Plan) and the associated harm would significantly outweigh the benefits. The proposal is therefore deemed to be contrary to the requirements of Policies H1 and SS3 of the Torbay Local Plan and Policy TS1 of the Torquay Neighbourhood Plan.

Overdevelopment

The scale and extent of the five proposed dwellings, the proposed hard surfaced areas and access road amount to overdevelopment of the site and would seriously erode the landscape qualities of the site. The proposal is therefore deemed to be contrary to the requirements of Policy DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

Impact on landscape character

The siting, scale and design of the proposal would have an incongruous urban appearance out of character with the hamlet character of Edginswell in the immediate vicinity of the site. The proposals would have a negative impact on the open, green landscape qualities of the site which form an attractive part of the countryside around Edginswell. The proposed form of housing development would erode these qualities and the countryside setting of Edginswell. The proposal is therefore deemed to be contrary to the requirements of Policy DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

Impact on heritage assets

The proposed buildings by reason of their size, unsympathetic design, height and elevated position fail to preserve or enhance the setting of adjacent listed buildings at Edginswell Farm to the south and the rural setting of the area. The proposed buildings would be a prominent, intrusive and unsympathetic form of development which would result in less than substantial harm to the setting of the designated heritage assets. The public benefit of the provision of five residential units on the site is clearly outweighed by the visual impact on the adjacent heritage assets, harm to existing landscape features and the landscape character of the area. The proposed development does not, therefore, meet the requirements set out in the National Planning Policy Framework for the presumption in favour of residential development where the Local Plan is not up to date. The proposal is therefore deemed to be contrary to the requirements of Policies DE1, DE4, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan, the guidance contained in the National Planning Policy Framework and the requirements of section 66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990.

Insufficient information

The stone wall bordering the site on the west side of Edginswell Lane is a listed structure. Listed building consent is required for works that have already been carried out and any future works that would be needed to create a safe access into the site. The planning application does not contain sufficient information within a Statement of Heritage Significance to enable an assessment of the heritage impacts associated with alterations to the wall to be carried out. The proposal is therefore deemed to be contrary to the requirements of Policies DE1, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan, the guidance contained in the National Planning Policy Framework and the requirements of section 66(1) of Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning balance

The benefit of the provision of five residential units on the site is clearly outweighed by the visual impact on the adjacent heritage assets and harm to existing landscape features and the landscape character of the area. The proposed development does not, therefore, meet the requirements set out in the National Planning Policy Framework for the presumption in favour of residential development where the Local Plan is not up to date.