

South Hams Development Management Committee



Title:	Agenda										
Date:	Wednesday, 8th June, 2016										
Time:	11.00 am										
Venue:	Council Chamber - Follaton House										
Full Members:	<p style="text-align: center;">Chairman Steer</p> <p style="text-align: center;">Vice Chairman Foss</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Bramble</td> <td>Hodgson</td> </tr> <tr> <td>Brazil</td> <td>Holway</td> </tr> <tr> <td>Cane</td> <td>Pearce</td> </tr> <tr> <td>Cuthbert</td> <td>Rowe</td> </tr> <tr> <td>Hitchins</td> <td>Vint</td> </tr> </table>	Bramble	Hodgson	Brazil	Holway	Cane	Pearce	Cuthbert	Rowe	Hitchins	Vint
Bramble	Hodgson										
Brazil	Holway										
Cane	Pearce										
Cuthbert	Rowe										
Hitchins	Vint										
Substitutes:	Named substitutes are not appointed										
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.										
Committee administrator:	Kathy Trant Senior Case Manager 01803 861185										

1. Minutes

1 - 6

To approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Committee held on 11 May 2016;

2. Urgent Business

Brought forward at the discretion of the Chairman;

3. Division of Agenda

to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;

4. Declarations of Interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting;

5. Site Inspections

the site inspections from the meeting on 31 May 2016 will be considered under agenda item 6.

6. Planning Applications

(a) 28/1560/15/O

7 - 28

Outline application with some matters reserved for residential development scheme for 32no. dwelling at allocated site K4
Proposed Development Site At SX 7392 4386, Allocated Site K4, Garden Mill, Kingsbridge

For Letters of Representation and further supplementary information select the

following link:

<http://apps.southhams.gov.uk/planningsearch/default.aspx?shortid=28%2f1560%2f15%2f0>

(Upon the conclusion of the above agenda items, the meeting will be adjourned and re-convened at 2.00pm)

(b) 0253/16/FUL

29 - 34

Application for redevelopment of brownfield site (redundant reservoir) to provide one dwelling
Putts Reservoir, Upper Wood Lane, Kingswear, TQ6 0DH

For Letters of Representation and further supplementary information select the following link:

<http://www.southhams.gov.uk/results2?civica.query.FullTextSearch=0253%2F16%2FFUL>

(c) 14/1785/15/F

35 - 42

Erection of detached dwelling and associated parking within the garden
Deepdene, Cott Lane, Dartington, Totnes

For Letters of Representation and further supplementary information select the following link:

<http://www.southhams.gov.uk/planningdetails?RefType=APPPlanCase&KeyNo=0&KeyText=151261>

(d) 0901/16/FUL

43 - 46

Erection of 2no. terraces of industrial units (class B1)
Admiral Court, Nelson Road, Dartmouth

For Letters of Representation and further supplementary information select the following link:

<http://www.southhams.gov.uk/planningdetails?RefType=APPPlanCase&KeyNo=0&KeyText=160841>

7.	Planning Appeals Update	47 - 50
8.	Affordable Housing Obligations	51 - 56

Report of COP Lead Specialist – Development Management

**MINUTES OF THE MEETING OF THE DEVELOPMENT MANAGEMENT
COMMITTEE HELD AT FOLLATON HOUSE, TOTNES, ON WEDNESDAY,
11 MAY 2016**

Members in attendance

Cllr I Bramble	Cllr J M Hodgson
Cllr J Brazil	Cllr T R Holway
Cllr B F Cane	Cllr J A Pearce
Cllr P K Cuthbert	Cllr R Rowe
Cllr R J Foss (Vice Chairman)	Cllr R C Steer (Chairman)
Cllr P W Hitchins	

Apologies

Cllr R J Vint

Other Members in attendance

Cllrs Bastone, Green, Hawkins, Saltern, and Ward

Officers in attendance and participating

Item No:	Application No:	Officers:
All agenda items		Development Management COP Lead, Planning Specialists, Solicitor and Senior Case Manager
	3074/15/FUL	Senior Specialist - Licensing

DM.71/15 MINUTES

The minutes of the meeting of the Committee held on 13 April 2016 were confirmed as a correct record and signed by the Chairman.

DM.72/15 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr R C Steer declared a personal interest on behalf of all Members of the DM Committee who were either Conservative Group Members or Devon County Council Members, in application **2742/15/HHO**: Conversion of part of redundant premises to form two new dwellings – Bovisand Lodge Cottage, Bovisand Lodge Estate, Staddiscombe by virtue of the applicant being related to the Leader of Devon County Council. All Members remained in the room and took part in the debate and vote thereon;

Cllr B F Cane declared a personal interest in the following applications by virtue of being a Member of the South Devon AONB Partnership Committee within which the applications were sited. He remained in the meeting and took part in the debate and vote on each of these applications:-

2682/15/FUL: Replacement of existing dwelling with 2 No proposed dwellings – 59 Yealm Road, Newton Ferrers

0253/16/FUL: Application for redevelopment of brownfield site (redundant reservoir) to provide one dwelling – Putts Reservoir, Upper Wood lane, Kingswear

2742/15/HHO: Conversion of part of redundant premises to form two new dwellings – Bovisand Lodge Cottage, Bovisand Lodge Estate, Staddiscombe

Cllr B F Cane also declared a personal interest in application

27_57/1347/14/F: Residential development comprising 222 dwellings with green infrastructure, public open space, flood attenuation provisions, vehicle access points, internal roads and pedestrian/cycle links and associated works – Land at Torrhill Farm, Godwell Lane, Ivybridge, by virtue of having a professional relationship with the developer. He left the meeting for the duration of this item.

DM.73/15 **PUBLIC PARTICIPATION**

The Chairman announced that a list of members of the public who had registered their wish to speak at the meeting had been circulated.

DM.74/15 **PLANNING APPLICATIONS**

The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

2682/15/FUL 59 Yealm Road, Newton Ferrers

Parish: Newton and Noss

Replacement of existing dwelling with 2 No. proposed dwellings

Case Officer Update: In response to a question raised at the site inspection, it was confirmed that delivery of houses on garden land would contribute to the five year land supply.

Speakers included: Objector - Mrs Deborah McCann; Supporter - Mr Stephen Whetter; Parish Council Representative - Cllr Alison Ansell; Ward Member – Cllr Baldry

Recommendation: Conditional Approval

During discussion, Members noted the Conservation Area setting and the duty to preserve and enhance. Large gardens were a historic fact and should be preserved for their own historical importance. Any alterations would radically affect the views in and out. Preservation of the views had been noted by the Planning Inspector in relation to a previous proposal. The predominance of pitched roofs was also noted. The design and massing of the proposal did not preserve the built form. Comments were also made in relation to light spillage. One Member felt the proposal was unneighbourly.

Committee Decision: Refusal

Reasons:

- Impact including loss of green space in the Conservation Area and Heritage Asset; and
- Adverse impact on AONB of design, materials and massing.

3074/15/FUL Greenwood, Western Road, Ivybridge

Parish: Ivybridge

Erection of 5 new dwellings

Case Officer Update: N/A

Speakers included: Supporter - Mr Kevin Higgins; Ward Member – Cllr Saltern

Recommendation: Conditional Approval

During discussion on this application, Members discussed viability and the fact that none of the proposed dwellings would be affordable. An additional condition was suggested in relation to provision of the bin storage screening fence prior to occupation. A proposal to condition wooden windows was lost.

Committee Decision: Conditional Approval

Conditions:

1. Time
2. Accord with Plans
3. Materials and samples prior to installation
4. Eaves and verges details prior to installation
5. Joinery details prior to installation
6. Rainwater goods details prior to installation
7. Retention of all parking areas in perpetuity, no parking in other areas
8. Accord with provisions of arboricultural method statement

9. Landscape plan prior to commencement
10. Accord with details of submitted drainage strategy
11. Units 2, 3, 4 rooflights to rear elevation obscure glazed
12. Lighting specification prior to installation
13. Works to avoid bird nesting season
14. Removal of Permitted Development Rights
15. CEMP prior to commencement of development
16. Unsuspected contamination

Additional condition:

Provision of the bin storage screening fence prior to occupation

0253/16/FUL Putts Reservoir, Upper Wood Lane, Kingswear

Parish: Kingswear

Application for redevelopment of brownfield site (redundant reservoir) to provide one dwelling

Recommendation: Conditional Approval

Committee Decision: Site Inspection

0579/16/FUL Site of WI Hall, Ford Road, Yealmpton

Parish: Yealmpton

Erection of a detached house on land Previously used for WI Hall

(NOTE. THIS APPLICATION WAS WITHDRAWN FROM THE AGENDA PRIOR TO THE COMMENCEMENT OF THE MEETING)

0021/16/FUL Land adjacent to Barkington, Staverton

Parish: Staverton

Application for stables and hardstanding

Case Officer Update: N/A

Speakers included: Supporter – Mr R Hill: Ward Member – Cllr Hodgson

Recommendation: Conditional Approval

Members discussed the matter of commercial activity in relation to this application, and it was agreed to amend the wording of the final condition

Committee Decision: Conditional Approval

Conditions:

1. Time limit
2. Approved plan Numbers
3. Removal of existing corrugated building prior to construction
4. Construction of drainage soakaway prior to first occupation
5. Only allows the horses kept at the paddock to be present on site

**2742/15/HHO Bovisand Lodge Cottage, Bovisand Lodge
Estate, Staddiscombe**

Parish: Wembury

Conversion of part of redundant premises to form two new dwellings

Case Officer Update: N/A

Speakers included: Parish Council Representative – Cllr Drought:
Ward Member – Cllr Cane

Recommendation: Conditional Approval

Committee Decision: Conditional Approval

Conditions:

1. Time
2. Accords with plans
3. Materials to match existing or in accordance with approved plans

DM.75/15 PLANNING APPEALS UPDATE

Members noted the list of appeals as outlined in the presented agenda report and the COP Lead Development Management responded to questions and provided more detail where requested.

(Meeting commenced at 2.00pm and concluded at 4.00pm)

Chairman

Voting Analysis for Planning Applications – DM Committee 11 May 2016

Application No:	Site Address	Vote	Councillors who Voted Yes	Councillors who Voted No	Councillors who Voted Abstain	Absent
2682/15/FUL	59 Yealm Road, Newton Ferrers	Refusal	Cllrs Hitchins, Cane, Pearce, Rowe, Brazil, Hodgson (6)	Cllrs Holway, Cuthbert, Bramble, Steer, Foss (5)	None	Cllr Vint (1)
3074/15/F	Greenwood, Western Road, Ivybridge	Conditional Approval	Cllrs Hitchins, Cane, Pearce, Rowe, Brazil, Hodgson, Holway, Cuthbert, Bramble, Steer, Foss (11)	None	None	Cllr Vint (1)
0253/16/FUL	Putts Reservoir, Upper Wood Lane, Kingswear	Site Inspection	Cllrs Hitchins, Cane, Pearce, Rowe, Brazil, Hodgson, Holway, Bramble, Steer, Foss (10)	Cllr Cuthbert (1)	None	Cllr Vint (1)
Page 6 0221/16/FUL	Barkingdon, Staverton	Conditional Approval	Cllrs Steer, Foss, Bramble, Pearce, Cuthbert, Brazil, Holway, Hitchins and Cane (9)	Cllrs Hodgson and Rowe (2)	None	Cllr Vint (1)
2742/15/HHO	Bovisand Lodge Cottage, Bovisand Lodge Estate, Staddiscombe	Conditional Approval	Cllrs Steer, Foss, Bramble, Pearce, Cuthbert, Rowe, Holway, Brazil, Hodgson, Hitchins and Cane (10)	None	None	Cllr Vint (1)

PLANNING APPLICATION REPORT

Case Officer: Chris Gosling

Parish: Kingsbridge

Application No: 28/1560/15/O

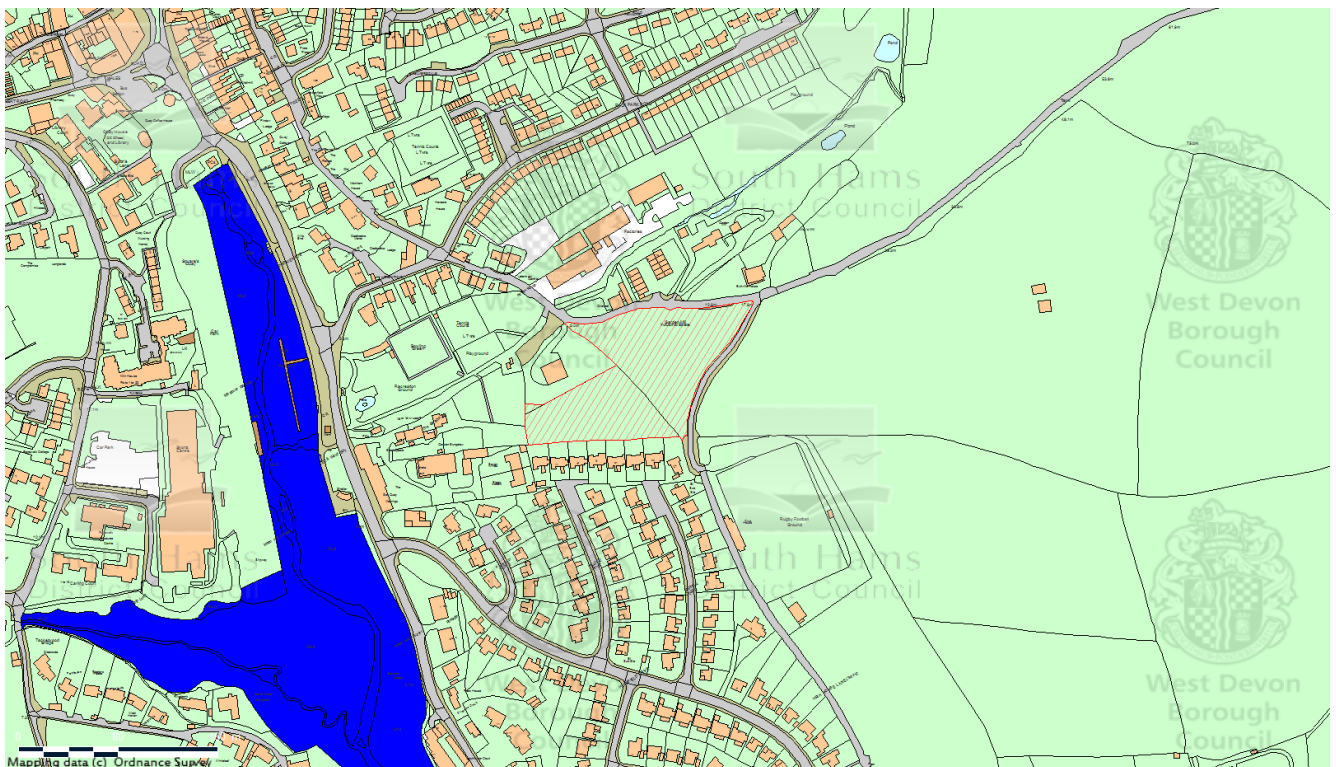
Agent/Applicant:

h2land
Barley House
Cedar Drive
Snitterfield
Stratford Upon Avon
Warwickshire
CV37 0LJ

Site Address: Part of allocated Site K4, Garden Mill, Derby Road, Kingsbridge

Development: Outline application (with landscaping reserved) for erection of 32 no. dwellings and vehicular access.

Reason item is being put before Committee: Ward Councillors refer this application to the Committee due to concerns over the amount of affordable housing that the development would generate



Recommendation:

Conditional Approval – subject to the prior satisfactory completion of a Section 106 Agreement dealing with the following matters.

1. Affordable Housing provision.
2. Education Financial contribution.
3. Landscape and Ecology Management Plan.

Conditions

1. Outline – submission of reserved matters
2. Outline – reserved matters time limit 3 and 2 years
3. Outline – reserved matters to be submitted in 3 years
4. Accord with Plans/Exclude Illustrative Drawings
5. Parking/Turning Details (Residential)
6. Provision of Accesses and Visibility Splays
7. Details of Highway Infrastructure
8. No windows to be inserted in the side elevation of the northernmost terraced dwelling.
9. Details of External Lighting – including low level lighting
10. Construction Management Plan to be submitted
11. Precise landscaping details required with Reserved Matters
12. Implementation of Surface Water Drainage Details and Management and Mitigation during Construction
13. Submission of Landscape Maintenance and Management Plan
14. Submission and implementation of Arboricultural Method Statement (including a scheme of protection for existing trees)
15. Submission and Implementation of Landscape and Ecology Management Plan
16. Unsuspected Contamination
17. GPDO Exclusion
18. Prohibited activities regarding trees
19. Tree protection barriers to be erected and maintained throughout the works
20. Materials samples – timber, slate and stone
21. Detailed permanent surface water drainage management plan to be submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority

INFORMATIVES

1. Nesting birds legal reminder

2. Lighting Scheme.

With reference to the requirements of condition 9, prior to installation of any lighting on site the applicant/developer shall have demonstrated to the Local Planning Authority that the proposed lighting scheme shall comply with the lighting levels described in the Institute of Lighting professionals guidance: guidance notes for the reduction of obtrusive light, and be compliant with Environmental Zone 3.

3. With regard to the proposed changes to the Public Right of Way 18 that crosses the site, the County informs that the applicant will need to apply for a diversion order under s257 of the Town and Country Planning Act 1990, as amended by s257 of the Growth and Infrastructure Act 2013.

Note

This application has also been advertised as affecting the setting of a Listed Building, affect a public footpath and as a Major development proposal.

Consultations

NB Full re-consultation was carried out following receipt of an amended layout indicating that the hedgebank along Derby Road, bordering the site would be retained, with the nearest dwellings to be located further into the site as a result. The following replies were received on the amended proposal:

- **County Highways Authority**

The Highway Authority notes the application is in outline form for 32 dwellings with access and appearance being Reserved Matters and therefore not being dealt with at this stage. The Highway Authority notes that the amended scheme has removed the unsafe footway and traffic calming from Derby Road, confirming that this does not form part of the application. There will be shared use of the bridge and its approach with anticipated low vehicle speeds along this stretch. On balance the Highways Authority does not wish to object on this matter. The application potentially seeks an adopted highway and to that end has provided an indicative internal site layout. The revised layout is considered acceptable, with potential for an adequate visibility splay at the junction, of 2.4 metres by 25 metres in each direction.

With regard to the proposed changes to Public Right of Way 18 in Kingsbridge, that crosses the site, the County informs that the applicant will need to apply for a diversion order under s257 of the Town and Country Planning Act 1990, as amended by s257 of the Growth and Infrastructure Act 2013.

- **Highways England**

No objection

- **Devon County Flood Risk Management Team**

Further to the information provided in respect to alternative attenuation design presented in *Supplementary Information – Drainage Strategy* (Revision dated 3rd February 2016) and Drawing No. 215-101-A, *Site Layout Surface Water Attenuation and Foul Details* (dated 27th January 2016), this addresses our concerns within our letter FRM/092/2015 dated the 21st of August 2015 therefore we have no objection to the proposed development. Request that a condition is appended to ensure that surface water drainage is dealt with satisfactorily.

- **Drainage Engineer**

Accord with the County comments and recommends the same condition as suggested by the County to control drainage issues.

- **Strategic Planning**

Support: With particular regard to the mix of housing, generally satisfied with the mix of sizes they are proposing, although the proliferation of detached dwellings is quite a way from what we have indicated would be acceptable (59% instead of approx. 39%). What could balance this, is that they are providing less 4-beds than we have indicated (25% instead of 30%) and are marginally overproviding on the 2 and 3 bed component of the

scheme. It is accepted that the topography of the site presents limitations on creating the perfect mix of dwellings to meet local need.

- **Environment Agency**

Did not comment on the re-consultation, but originally commented as follows: The majority of the site lies in Flood Zone 1 (lowest risk) but part of the lower area lies within Zone 3, with a high probability of flooding. The NPPF requires a Flood Risk Assessment to be provided in these circumstances and access and egress need to be part of consideration whether the site is safe from flooding. Routes in and out of the site should be practical and safe.

- **Environmental Health Section**

Satisfied that the development is acceptable from an Environmental Health point of view. Suggest the unsuspected contamination condition and the requirement for a construction management plan be attached to any permission.

- **SHDC Natural Environment and Recreation**

No objection with regard to landscape character & visual impact, protected landscapes (AONB), trees & hedges, ecology, open space & play, sports provision and public rights of way, subject to a Section 106 contribution of £380 per resident towards improvements to open space and play equipment at the Recreation Ground.

- **Council Ecologist**

All concerns raised in my August 2015 comment have now been satisfactorily addressed.

- **Council Landscape Officer**

With regard to the impact on the AONB landscape, it is acknowledged that the site is allocated for development. The character of the landscape will be broadly conserved under this proposal. The steep slope leaves the site relatively well contained visually and limits views in. From other directions the site will be read in conjunction with the town. The loss of trees can be mitigated for through further planting. Subject to appropriate conditions, no objection is raised.

- **Council Conservation Officer**

Less than substantial harm to the nearby Listed Building. I would ask that a belt of screen planting / copse be provided in the NE corner of the site closest to Buttville House and that this ensure all season screening. This will allow some minimisation of harm and protection of the immediate setting to the listed building. It may also overcome some of the amenity and overlooking issues which have been raised.

- **SHDC Environment Services**

No objections received.

- **Affordable Housing**

A viability case has been made as an integral part of this application. This has been assessed independently and has resulted in the proposal being able to offer no more than 4 units of affordable housing.

- **Devon County Council Education**

No reply to the re-consultation, but originally a financial contribution of £87,556.80 for use towards additional secondary school facilities was recommended. The number of dwellings proposed has not changed since then.

- **Historic England**

Did not respond to the re-consultation. Originally commented that there was no need for them to be consulted.

- **Devon and Cornwall Police**

Initial comments still apply, as follows:

The scheme is indicative and in coming to a finalised proposal, care should be taken to ensure that it meets full compliance with Secured by Design. The public footpath across the site lacks surveillance and is close to some side and rear boundary plots. This should be lit and as open to view as possible.

- **Natural England**

No response to re-consultation but originally replied stating no objection. Satisfied there is not likely to be an adverse effect on the Salcombe to Kingsbridge SSSI or estuaries. No assessment made of protected species. Suggests improvements to Green Infrastructure would be appropriate.

- **Kingsbridge Town Council**

Recommend approval with the following conditions:

Low level lighting to be installed on the pedestrian footpath through the recreation ground from Derby Road to Embankment Road and

The hedge bordering Derby Road to be retained

On seeing the revised Section 106 Heads of Terms, the Town Council have responded that they intent to call an extraordinary meeting to consider the changes and Members will be updated verbally at Planning Committee.

- **South Hams Society**

Did not reply to the re-consultation, but originally responded that the site is difficult due to Derby Road being narrow and the steep gradient of the hillside. Information is insufficient to show the feasibility of gradients on the hillside. It will be difficult to contain surface water run-off. In the absence of such detail, the applicants should be offered the opportunity to withdraw or have the application refused.

Responses from the public

Letters of representation from 8 objectors were received, most of them in response to the original proposal. There were further replies as a result of re-consultation on the amended scheme, with the hedgerow retained. The letters cited the following concerns:

Footpath –

Lack of information on Public Right of Way details – how many steps and what will be the gradient?

The footpath would be changed from a country path to tarmac crossing the access road – its rural aspect should be retained

Ecology and Trees –

The ecology report states that the requirement for a survey of Cirl Buntings would lead to the developers degrading the potential habitat on site to ensure that the results of such a survey would be negative

Ecology report is misleading

The road would have an impact on tree root protection zones

AONB –

Major development in the AONB should be refused in accordance with the NPPF.

Loss of green space between the town centre and Waterside Park

The car parking would be outside the allocation, in the open countryside and AONB

Flood Risk and drainage –

Severe flooding problems would be exacerbated by development of this site

Residents would be cut off in floods

No containment for run-off from site affecting the recreation ground and road

The sequential test is required to be carried out as the site is within a high flood risk area

Built form –

Inappropriate density of development

Three storey houses inappropriate

Nearby residents would have a view of a housing site – aesthetic objection

Residential Amenity –

Impact on privacy in back gardens and rooms

Noise, air and light pollution from traffic

Light pollution 24 hours a day from streetlights

The proposed balconies would give a view into and over Buttville House

Headlights on the internal road would be intrusive to occupants of Buttville House

Parking –

Existing parking problems on Rack Park Road

Traffic and highway safety –

Too much parking on local roads, especially during the construction period

Impact on pedestrian safety, particularly for children accessing the scout hut and recreation ground

Site entrance badly located

Up to 200 vehicles an hour use the road at peak times, in connection with rugby club

If Derby Road were to have street lighting, it would improve safety

Inadequate access to serve the development

Width of bends on internal layout too narrow for traffic

The application fails to improve the surrounding road network for all highway users

Roads not designed for the heavy traffic the development would generate such as dustcarts and fire engines

Affordable Housing –

No affordable housing offered with this scheme

Plans –

Lack of detail

Unclear intentions over the site's southern boundary

Impact on nearby Listed Building –

The LB was designed to have an outlook over the surrounding open countryside

Views from the footpath of the LB would be lost, which is an important aspect of its setting

Overbearing impact on the LB due to the elevated position of the site, the scale and mass of the development

The Heritage Statement is inaccurate with regard to levels

Other matters –

Lack of a designated access to inspect health of trees on site

Risk of increased home insurance due to the admitted (low) risk of landslides from site

Who has the liability for the effect of groundworks on the stability of land off site

The proposal would breach Human Rights, 1: the peaceful enjoyment of possessions and enjoyment of property; and 8: the right to a private and family life

The Proposal

The application seeks outline planning permission for the erection of 32 dwellings, a new vehicular access and drainage. Details are included with the submission for all matters other than landscaping which is the only reserved matter and will require the submission of a subsequent Reserved Matters application, should this application be approved.

The development site lies to the east of Derby Road, which is a no through road that leads to Kingsbridge Rugby Club, east of the town centre. The site comprises a single field between Derby Road and the housing development consisting of bungalows, the rear gardens of which back onto the site.

There is employment land on the other side of Derby Road, forming a small industrial estate. There is also a veterinary surgeon's premises in this area.

The layout submitted with the application shows residential buildings enclosed by the hedgerow alongside Derby Road, the existing field boundary, which is shown as being retained on the amended plans. The residential development within the site would be linked to Derby Road via a footpath as well as the vehicular access. The road to serve the dwellings is proposed to wind up through the steep hillside of the site, which is the only way that it can be designed in order to reach each dwelling, given the gradient.

The site has a road frontage divided from the site by the hedgebank, which due to the relative gradients, leaves the lane at a significantly lower level than the site. There is a difference of approximately 30 metres between the highest level of the site and the lowest and a difference of 23 metres between the floor levels of the dwellings, as read from cross section C-C which runs from the top to the bottom of the site (Derby Road itself).

The application has been accompanied by the following:-

- Indicative layout drawing;
- Draft Heads of Terms, updated to take account of the independent viability report;
- Ecological Appraisal;
- Arboricultural report;

- Design and Access Statement;
- Transport Assessment;
- Archaeology report;
- Ground Conditions Report;
- Flood Risk Assessment and Drainage Strategy

The S106 Agreement sets out the following:-

- An on-site affordable housing contribution of 4 dwellings, adjusted after the viability of the scheme had been examined, being split 75% affordable rented and 25% intermediate/shared ownership. This has been subject to independent viability assessment.
- Long-term management and maintenance of hedges, trees, public open space and play areas;
- Measures to secure public access to all footpaths in perpetuity;
- Access requirements;
- Education contributions in a claw-back arrangement if land values allow a greater profit than originally allowed for;

It should be borne in mind that the site is very steep and therefore there will be abnormal costs involved in its development. Difficulties include a limit on the number of dwellings that can be built on the site and still being able to be accessed by a road that has to avoid too great a gradient; cut and fill levelling of the site and drainage attenuation measures derived from the topography. This will have a significant bearing on the capability of the site to provide what would normally be expected from a 'greenfield' site and will form a significant factor in the analysis below.

Site and Surroundings

The site lies close to the northeastern edge of Kingsbridge, accessed from Derby Road off the main road towards Torcross. The land is within the South Devon Area of Outstanding Natural Beauty (AONB) and The Salcombe to Kingsbridge Estuary Site of Special Scientific Interest (SSSI) lies approximately 150 metres to the west of the site.

The site is situated on a steep hillside, a grassed field. The proposal site extends to approximately 1.6 hectares as declared on the application form and is part of the K4 allocation in the Local Development Framework Kingsbridge Site Allocations Development Plan Document. This allocation comprises a mixed use of residential and employment land, the latter would extend the Garden Mill industrial estate. This application is for residential use on part of this allocation, effectively leaving the employment land and the balance of the intended housing to the valley behind the industrial estate. The entirety of this site lies within the land allocated as proposal K4.

The land within the site slopes down steeply from east to west and the field is enclosed by hedgebanks /trees. These boundaries are a tree screen to the lane to the north, which is matched by a similar screen on the other side of the lane that leads to Kingsbridge Rugby Club; a hedgebank along the site's western boundary, which is now proposed to be retained; a less substantial hedgerow dividing the site from the housing at the top of the hill, at the end of the back gardens of which back onto the site. There is a steep, unmade public footpath that crosses the site, running up/downhill that would need to be diverted for the site to accommodate the proposed development. Next to this is a hedgerow that divides the two

fields of the site on a north-south axis. This footpath links the housing at the top of the hill with the town and more immediately the park at the bottom of the slope.

The residential development to the east of the site comprises bungalows, the rear gardens of which are marked by a hedgerow, on the site's side agricultural but on the other side largely featuring garden shrubs.

Beyond the northwestern corner of the site, across the lane, stands Buttsville House, a detached property that is Grade II Listed.

Further away, in the valley, is a park that runs from the estuary up to Derby Road, but is separated from the scout site by a stream at the valley floor. The scout hut is single storey, with grassed terraced grounds, which abut the site.

All vehicular access to this site would have to cross a small bridge over this stream. The road leads up to Buttsville House and the Rugby Club at present, serving no other properties beyond the bridge apart from part of the industrial estate. The stream itself feeds into the estuary about 100 metres south of the bridge. The site lies within Flood Zone 1 as defined on the Environment Agency Flood Zone map. It is noted that the site access and Derby Road fall within Flood Zone 3, however the site was allocated under K4 with full knowledge of the flood risk to Derby Road.

Planning History

Following the allocation of the site within the LDF Kingsbridge Site Allocations DPD, a masterplanning exercise has been undertaken. This did not reach completion.

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Details of policies appear at the end of this report, of particular relevance however, are:

Adopted LDF Core Strategy – December 2006

CS1 – Location of Development – confirms that development is acceptable in principle within settlements and lists many settlements and includes Kingsbridge identified as an Area centre.

CS2 – Housing Provision – To provide on sites to be proposed in the LDF 6000 new dwellings by 2016 including 200 dwellings to be allocated in the Area Centre of Kingsbridge. In accordance with than current government guidance, development should be advanced at the highest density compatible with the site, which will generally be up to 75 dwellings per hectare in built up areas.

CS6 – Affordable Housing – new residential development should provide affordable housing consistent with the overall strategic target of 50% from all sources and having appropriate regard to the identified local need; nature and scale of the location and the development proposed; characteristics of the site; and economics provision.

CS9 - Landscape and Historic Environment – The quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced. In this instance, the historic component to this assessment concerns the setting of the Listed Building, Buttville House.

South Hams LDF Development Policies DPD – July 2010

DP1: High Quality Design: All development will display high quality design which, in particular, respects and responds to the South Hams character in terms of its settlement and landscape.

DP2: Landscape Character: Development proposals will need to demonstrate how they conserve and/or enhance the South Hams landscape character, including coastal areas, estuaries, river valleys, undulating uplands and other landscapes.

DP3: Residential Amenity: Development will be permitted provided it does not have an unacceptable impact on the living conditions of occupiers of nearby properties. Unacceptable impacts will be judged against the level of amenity generally accepted within the locality and could result from loss of privacy and overlooking; overbearing and dominant impact; loss of daylight or sunlight; noise or disturbance; odours or fumes.

DP11: Housing Mix and Tenure: Residential developments will be permitted where they provide an appropriate mix of dwelling types, tenures and sizes, which should reflect the identified local need in South Hams demonstrated by the latest Housing Market Needs Assessment and other local evidence.

Adopted DPD: Affordable Housing – September 2008

AH1 -- Affordable Housing Provision – all new housing schemes for two or more dwellings will be expected to contribute towards meeting the affordable housing needs of the District. The capacity of the site and the viability of the development, including the availability of any housing grant or other subsidy, will be assessed for the contribution each scheme should make. On-site provision will be expected for sites with the capacity for 6 dwellings or more. Planning permission will be subject to a planning condition or planning obligation to ensure that the affordable housing is provided and retained for eligible households.

AH2 – Allocated Sites - in order to address the scale of need, allocated sites are required to deliver as much affordable housing as is viable. In Area and Local Centres the target is 55%.

AH4 – Mix, Size, Type and Tenure – in its size and type, affordable housing shall reflect identified local needs to contribute towards attaining a balanced housing market. The strategic target for tenure split is 50% social rented and 50% intermediate affordable housing across the district (excluding the Sherford new community). The site specific split in each case will be determined with regard to local circumstances.

Kingsbridge Site Allocations DPD – February 2011

Proposal K4: Garden Mill, Kingsbridge: Mixed use development proposed for beyond 2016 to include:-

About 50 dwellings;

Maintenance of about the existing number of jobs in the area

Cycle and footpath provision including enhanced access to the town centre; and

Provision of offices and workshops

Development of this area should accord with a Masterplan previously approved by the Council.

Adopted SPD: Planning Obligations – December 2008

In view of the very high levels of need in South Hams, it is anticipated that affordable housing will normally be the first priority element of local community infrastructure. Unless it can be demonstrated that local circumstances require otherwise, the Council will normally allocate second priority to the provision of open space, sport, recreation, education and accessibility.

The National Planning Policy Framework

The presumption in favour of sustainable development.

Para. 14. At the heart of the NPPF is a presumption in favour of sustainable development. Unless material considerations indicate otherwise, for decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole, or specific policies in the NPPF indicate development should be restricted, e.g. those policies relating to sites in AONB's.

Conserving and enhancing the natural environment.

Para. 112. LPA's should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in preference to that of a higher quality.

Para. 132. 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through development within its setting. Substantial harm to designated heritage assets of the highest significance, including grade II* listed buildings, should be wholly exceptional.

Analysis

Planning Policy Context

This application relates largely to land allocated by Proposal K4 "Garden Mill" in the Kingsbridge Site Allocations Development Plan Document (KSA DPD) for development beyond 2016. The allocation covers the application site as well as further land containing Garden Mill Industrial Estate, Buttville House and a stretch of farmland extending further than the dead end of Rack Park Road behind the industrial estate. The principle of development on this site and the remainder of the K4 allocation is therefore established and its progression is supported as it can make an important contribution towards the district's housing land supply. The remainder of the site will accordingly be expected to deliver a mixture of housing and employment as envisaged in the mixed use of the overall allocation.

The application site therefore includes one parcel of the land allocated in Proposal K4.

A masterplan relating to the application site was prepared in response to the then applicable "Masterplans and Development Briefs SPD, as part of an extensive community engagement process. However, the Masterplans and Development Briefs SPD was revoked following the Executive meeting of the Council on 18th July 2013.

The SA DPDs provide for flexibility on the precise site boundary definition in such cases.

It was also confirmed that the allocation of sites within the AONB means that there is insufficient scope for meeting development needs outside of the AONB. The proposal represents development of part of the allocation and not all of it, but this factor is determined by current land ownership. The small encroachment beyond the boundary of the allocated site is dictated by the requirement to get this site to deliver much needed housing.

An assessment of the application against the requirements of Proposal K4 is set out below:

- K4 proposes 50 dwellings on this site as well as the remainder of the allocation.
- This proposal for part of the K4 allocation includes no employment provision.
- Landscaping of the development is one of the matters reserved for consideration at the detailed application stage.
- The proposal would involve the required improvement to footpath links between housing development to the east of the site and the town centre

The application site is allocated for development. The National Planning Policy Framework (NPPF) advises that housing applications should be considered in the context of the presumption in favour of sustainable development. This is emphasised in the Ministerial Foreword to the NPPF which says that development that is sustainable should go ahead without delay and that this should be the basis for every decision. The NPPF retains the status of the Development Plan as the starting point for decision-making and the location of the site within the South Devon AONB is clearly a significant factor. However, given that this site is allocated for development in the Development Plan and taking into account the range of planning policy issues, it is considered that the proposed application is acceptable in principle from a policy point of view.

Sustainable Development

The allocation within the KSA DPD of the majority of the application site for mixed use development demonstrates that this land has already been considered to be a sustainable location for development. The site is close to the town centre of Kingsbridge and the services and facilities contained therein. Indicative plans show the provision of cycle and footpath links.

Landscape Character and Visual Impact

The application site constitutes the allocation site K4, which is within the South Devon AONB. It is a sensitive site requiring detailed scrutiny and careful attention to impacts on landscape character and the potential for adverse visual impact.

The K4 field has already been allocated and analysed through the DPD process as being acceptable, inter alia in general landscape terms. In this revised proposal the built development is more tightly contained within the site's boundaries due to the retention of the Derby Road hedgebank. The retained boundary hedging will help to contain the development, and relate to previous boundaries seen on historic maps.

Protected Landscapes

The site is within the South Devon AONB and as such has the highest level of protection-equivalent to that within a National Park. The policy context is clear – and now twofold:-

1. The existing Core Strategy CS 9. This establishes the need to conserve and enhance within a context of social and economic benefit. The identified adverse impacts would be short term as they can be mitigated for through replacement planting and thickening of

existing planting. These are limited in extent and degree and a planning balance needs to be struck weighing these impacts in relation to social and economic benefit.

2. As potentially a “major” application the proposal will also need careful analysis in relation to NPPF paragraph 116, -

Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Careful analysis in relation to paragraph 115 in any event.

It should be noted that the conformity assessment between the adopted South Hams DPD and the NPPF didn't raise any unconformity in general terms and, given that the allocated K4 site lies within the AONB, it would be reasonable to conclude that it was either not considered to be “major development” for the purposes of the NPPF (a later consideration given that the NPPF was not published until 2012), or that the economic and social justification outweighed the site's location within the AONB. Additionally, bearing in mind the provisions of paragraph 115, that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty, harm was not identified.

The site is located within Devon Character Area (DCA) 49 – Salcombe to Kingsbridge Estuary; LCT 3A LDU868. Whilst the site clearly sits within the fringes of Kingsbridge with residential properties to the south and north, the landscape to the east is rural and forms an important setting to the town; the site lies within the South Devon AONB. The area is strongly characterised by the estuary, and flanked by pronounced, steep sided rounded hills with a clear visual and topographic association with the inland tidal waters.

The site rises steeply up the north facing valley slope. Its existing character is rough grassland and scrub, with a strong vegetated boundary. Of particular note is the rural character of the lane which extends around the site up to adjacent dwellings and local rugby club; this is a ‘no through road’. The site is also crossed by a steeply rising public footpath which links into adjacent paths beyond the urban boundary.

In consideration of the allocation, acknowledged proposed use and location on the immediate boundary of residential properties, the overall landscape character will be broadly conserved. As a result of the steep sloping topography, which makes delivery of the housing more challenging, the site is well contained visually, and will not significantly impact on the rural landscape to the east and south east. Views to and from the north are seen within the context of Kingsbridge. Discussions over retaining elements of the existing vegetation have resulted in what is considered to be a reasonable layout which retains the

character of the lower part of the site. The loss of trees along the upper, southern-east boundary will have an impact although this can be mitigated to an extent with replacement planting.

Due consideration has been given to the submitted management details and officers are satisfied the proposals does not adversely conflict with objectives.

Consideration shall subsequently be given to landscape planting, boundary treatments, impact on the public footpath, street and domestic lighting under Reserved Matters. No objection is raised to this outline proposal.

Trees and Hedges

An Arboricultural Report (Harper Tree Consulting; dated 2014.05.02) has been carried out and submitted in support of the application. This report notes the majority of trees are categorised as Grade C (noting inclusion of groups) and the overall conclusion that the net arboricultural impact will be negligible. However, this report refers to the original plans and impacts. The schematic drawings have subsequently been revised which may result in additional tree retention or removal. Given this is an outline application final numbers will be considered under Reserved Matters. This has been considered by officers in the context of the site and report.

Overall the proposal is acceptable in terms of the proposed layout and whilst it is acknowledged that trees will be removed, there are opportunities for replanting which can be secured by the condition recommended above. Although consideration has been given to Arboricultural Method Statements and protection in the report, the recommendation is to seek details under Reserved Matters.

Ecology

In relation to on-site ecology and protected species the application is supported by an Extended Phase 1 Habitat Survey, accompanied by a Supplementary Ecological Assessment from January 2016. This covers bats, Cirl Buntings, dormice and reptiles. No data search was undertaken originally with the local (Devon) Biodiversity Records Centre. Data search has now been completed with the DBRC and submitted alongside amended plans. Relevant findings have now been referenced within the SEA and this point has been addressed satisfactorily.

Para 3.5 of the original report acknowledges that tall hedgerow boundaries are likely to be used by bats for foraging and/or commuting. No further detailed bat activity survey has been undertaken to establish the type and level of bat use of such features. The SEA (3.2) now advises that there are no discernible opportunities for bat roosting and limited foraging/commuting potential over the field. 2.4 makes reference to *'boundaries (A-D) that currently present high quality bat foraging habitat (i.e. are likely to be used to a significant extent by bats for foraging/commuting).'* The SEA suggest that such *'use can reasonably be assumed and it is thus not necessary to demonstrate it through survey. Rather, sufficient mitigation should be incorporated into any scheme to ensure that any such use of the site by bats can continue both during the short and long term.'* The amended layout no longer involves removal of boundary hedgerow feature G4 – it is now proposed to retain and strengthen this boundary. One other boundary is still proposed to be removed, however the SEA notes that this boundary will be enhanced in the long term (replacing poor quality sycamore trees with a native hedgerow), and that the tall hedgerow on the far side of the lane (off site) will be retained throughout, maintaining its foraging potential. The

proposed mitigation includes a 'bat-sensitive' lighting scheme minimising/avoiding lighting boundaries, retention of hedgerows and new native hedgerow planting.

There was originally no mention of Cirl Buntings within the ecology survey, or assessment for the suitability of the site for the species. The site is relatively close to a record of breeding activity for Cirl Buntings however this is not discussed. The SEA now argues that the site, whilst offering some suitable Cirl bunting nesting habitat in hedgerow A/G4, has limited other appeal to the species (namely scrub or rough grassland). The SEA also argues that further afield (i.e. at least 250m from the site) surrounding fields are cattle-grazed improved pasture with well managed hedgerows which also have limited appeal to the species. The argument is considered to be reasonable – despite the site being within 2km of a recorded breeding habitat, the on-site and surrounding habitat has limited appeal to the species and is considered to be highly unlikely to support a breeding/foraging habitat.

A letter of representation has raised an objection regarding the ecologist's view that further surveys of cirl buntings should not be required as this would lead to the developers degrading the habitat to such an extent that it would no longer be a viable habitat, in order to ensure that the survey results would prove negative. This is considered to be a highly unusual stance to take. However, it is not directly at issue due to there being other habitats in the vicinity that would be suitable for cirl buntings, regardless of whether further surveys are carried out or not.

Suitability of the site for use by reptiles (albeit that this may be a recent occurrence due to site management practice) is acknowledged, however no further detailed reptile survey has been undertaken. Given the level of anticipated/proposed vegetation removal, this approach is considered contrary to Natural England Standing Advice for reptiles and general good practice. The site was however subjected to a full reptile survey during Sept/Oct 2015 with no reptiles being recorded. This point is now considered to have been addressed. Precautionary working methods will need to be incorporated into the LEMP given the variance in height of vegetation throughout the year.

Regarding the suitability of the hedgerows for use by dormice, this has been acknowledged however no detailed dormouse survey has been undertaken. This is based on an evidence search from the NBN which doesn't list local records of dormice and a perceived isolation of the site from significant suitable habitat. However as noted above, the ecology survey did not originally include a records search with the local Biodiversity Records Centre and was therefore not based on sound evidence. Given the proposed level of removal of hedgerow (i.e. entirety of G1 and G4) and potential suitability for dormice, the lack of detailed survey was considered to be contrary to Natural England Standing Advice for dormice and general good practice. The closest records of dormice held by the NBN are 4-5km away. A DBRC has now been completed which did not reveal any records of hazel dormice within at least 1km of the site. With no local records as evidenced by the DBRC search, and now with the retention of hedgerow A/G4 this point has been satisfactorily addressed.

Para 4.2 noted that native hedgerow is a BAP priority habitat (and NERC s.41 Habitat of Principle Importance) and accordingly warrants protection, retention and enhancement. This did not read across to the proposed site layouts which proposed the removal of entire boundary hedgerow features (G4 and G1). Removal of these significant areas of NERC s.41 Habitat of Principle Importance with no indication of proposed replanting, (although this is an outline application, given the level of loss of priority habitat, an indication of how

this would be compensated would be expected), this aspect was considered contrary to policy. Amendments to the plans since August 2015 indicate that G4 will be retained, and also indicate new hedgerow planting and reinforcement planting. Retention of planting in addition to new planting (maintenance of which will be secured via a LEMP) means that this point has been satisfactorily addressed.

As such, subject to conditions requiring a Landscape and Biodiversity Management and Maintenance Plan and a Lighting Strategy, an informative relating to timing of works to avoid nesting season and section 106 clauses securing the future management and maintenance of measures secured through the Landscape and Biodiversity Management and Maintenance Plan, the biodiversity of the site and surroundings would be conserved and enhanced and the proposed development would accord with the relevant LDF policies and national guidance.

Highway Matters

The Highway Authority notes that the application is an outline application but with access being dealt with for consideration at this outline stage.

The Highway Authority, in response to the amended scheme, which indicates visibility splays, confirms that subject to a condition requiring a construction management plan, the Highway authority raises no objections.

With regard to parking provision, the amended layout shows that for each proposed dwelling there would be two off street (driveway) parking spaces. The housing proposed ranges from seven two bedroom units to eight four bedroom units, with the balance being three beds. The four bedroom dwellings are shown as have garages, providing an additional 8 parking spaces on the site for the larger dwellings. The four proposed affordable terraced dwellings would not have internal garages, as this would prevent them being taken on by the Registered Provider. All other terraced dwellings would have the option of an internal garage, along with five of the eleven 'eco-homes'. The outdoor parking provision for the site is therefore 64 spaces, with an option of internal garages for a further 22 dwellings. Even if the garages are not used for the garaging of vehicles, it is considered that an adequate level of parking is provided by this proposed layout.

Drainage

The County Drainage Engineer has commented on the application and raises no objection. Appropriate conditions are recommended above to address drainage concerns.

The Council's Drainage Engineer has also commented on the application. No objections are made in principle to the scheme. However, various issues will need to be considered and addressed at Reserved Matters stage and these are subject to recommended conditions.

It is acknowledged that flooding has occurred around the head of the estuary in the centre of Kingsbridge in recent times and local residents' have concerns about the impact that the development site could have on flooding have been noted. Nevertheless, given that the application is seeking outline planning permission to establish the principle of development, and mindful of the resultant lack of objections from the Council's and County Drainage Engineers, the application is considered acceptable with regards to drainage, subject to the appropriate conditions.

Design

The layout shows the proposed housing in small clusters, addressing the road which snakes through the site to avoid creating too harsh a gradient. At the end of the cul-de-sac, orientated towards the valley are eight detached houses, close to the top of the hill, facing the access road and a turning area. The longest stretch of road in the scheme then heads from southeast to northwest across the site. Uphill of this road are, in order, a three storey terrace of 7 houses; a group of five detached eco-houses featuring green roofs and another three storey terrace of 6 houses. The road then heads for the site access on a level gradient and between the two parts of the road, five further detached eco-houses are shown. The housing mix is shown on the layout as 13 two bedroom houses, 11 three beds and 8 four bedroom dwellings. This mix is broadly compatible with policy DP11

The proposed dwellings are shown as render and slate, except the eco-houses, which feature natural stone (samples of which are required by condition above) and timber cladding, under a sedum roof. The terraces, featuring narrow houses, would have a strong vertical emphasis. The detached houses at the top of the hill would have a more square emphasis, with wide plan forms and mostly square windows. The eco houses follow a similar pattern.

Roof spaces are mostly utilised to provide additional accommodation. The layout and detailing is considered to have had regard for the local vernacular and as a result is considered to respect local distinctiveness and largely fit in with the town.

With regard to access and usability of the site itself, the changes are as follows: The footpath that crosses the site would be better surfaced and realigned to allow for a less steep profile than at present, improving its function; access to the dwellings is largely step free and given the gradient of the access road, movement between houses on the site is considered to be relatively easy for cyclists and pedestrians. Parking will be in front of the dwellings or in garages at ground floor level of the principle elevations. For the terraced dwellings, the parking situation precludes front gardens and the rear gardens, while small, at least have a general southerly aspect and are of a useable size. It is noted that one two bedroomed dwelling has no rear garden. This will be stipulated in the Section 106 not to be one of the affordable dwellings. Accordingly, this end-terrace dwelling would represent an opportunity for a buyer on the open market who specifically does not want a garden.

There appears to be a potentially awkward relationship between the end two bedroom terraced house (type D1) and the 'eco house' to the rear of it (type B1). While from the layout, these two dwellings would appear to be close to each other, in terms of the residential amenity for future occupiers there would be no concerns. The rear elevation of the eco house is shown as blank and the only windows in the rear of the terraced house light non-habitable rooms – a bathroom and staircase. In terms of the design of the scheme, the principle elevations face the roads that serve them and the rear to rear relationship is not considered to represent a cramped appearance.

Affordable Housing

Housing Need

The Strategic Housing Market and Needs Assessment (SHMNA) indicates a need for approximately 336 new affordable homes across the district each year.

The Affordable Housing Proposal

The level of affordable housing proposed amounts to 12.5%. This would equate to 4 terraced units as the proposal stands. In terms of tenure, the units will be provided as 70% rented and

30 % intermediate housing which is typically provided as shared ownership or through other models which are affordable relative to local incomes and local house prices. In this instance with four dwellings proposed to be provided, the split would be 3 rented (75%) and 1 shared ownership (25%). The affordable units will be provided as homes at the following sizes: two bedroom terraced dwellings.

Consideration of the affordable housing package has taken account of the balance of planning obligations being provided by the applicant and the abnormal costs of developing this steeply sloping site.

Officers consider that the affordable housing offer, while being realistic in terms of the viability of the development, would not make a significant contribution towards meeting the clear and identified need for affordable housing in the locality. Neither would it provide a mix of accommodation which responds directly to local need, because at such a low proportion of affordable housing the provision would not be able to provide enough types of dwellings to achieve this aim. However, the main consideration in this regard is that a lesser number of dwellings would result in fewer affordable units, if any at all. A greater number, with a different mix of dwelling sizes and types may be able to provide more. In either case, however, the viability of being able to develop this allocated site means that the desired number of affordable homes could not be delivered. Given the site constraints at the boundaries and beyond and the land take of the access road that necessarily has to reach each dwelling, it is considered that the only way that the site could deliver more affordable housing would be building flats instead of houses. While this would increase the density of development, it would provide a different character of development and potentially take up a greater proportion of the site's available area with parking. In this situation, the viability problems for developing the site would remain very similar and it is considered that the additional housing provided would have a limited impact on the proportion of affordable housing that could viably be made available. While far from optimal, therefore, the decision needs to be taken on the basis of the independently verified viability of providing this number of affordable dwellings, as a proportion of the viable development of the site as proposed. The offer, under these circumstances, is considered to be acceptable.

Historic Environment

As required by Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether or not to grant planning permission, special regard needs to be given to the desirability of preserving the setting of any listed building affected by the development.

In addition, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"..with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

This statutory obligation is further reinforced through Section 12 of the NPPF including paragraphs; 128, 129, 132, 133, & 134.

The Heritage Statement makes clear that there is little or no impact on Windsor Lodge or other heritage assets and this is accepted. The primary consideration is, therefore, the potential for harm to the setting of Buttville House. With this in mind, the Council's Conservation Officer assessed this proposal on site, looking at the interconnected views

between the application site and Buttville House and any more distant views of the designated heritage asset which may be of merit.

It is clear that this elegant early 19th century house was designed to have its primary aspect in a westerly direction towards the estuary. That is not to say that there are no views to the south or south west, but these do not form part of the designed orientation to such an extent. While the Conservation Officer has not been into the property, it is safe assumption that the first floor rooms in particular will have views of the proposed development. The setting as experienced by the owners will be harmed to some degree. Successive 20th century developments have diminished the quality of outlook from Buttville House to the extent that owners have created what is now quite mature screen planting. This has effectively screened the property in most distant views – the main ones are on the other side of the estuary in the vicinity of the leisure centre and car park. These views are of little significance and are essentially considered to be limited to roof and chimneys.

It is not accepted, as asserted in Heritage Statement, that impact is ‘negligible almost to the point of zero impact given.....topography, retained natural woodland screening and specific design measures....’. The likely effect on setting is considered to be that there will be some harm, but that this is in the ‘less than substantial’ category in NPPF terms. Having accepted that there is likely to be some harm, the question of mitigation comes into the assessment. The overgrown hedgerow specimens are not considered to represent ‘natural woodland screening’ as claimed. The corner of the development site closest to Buttville House would benefit considerably from supplementary planting, including suitable winter screening such as Holm oaks etc. It must be acknowledged that the listed building is in its optimum viable use, but for that to be sustained the quality of its immediate environment, amenity and protection from overlooking or light pollution are all considerations.

It is apparent, from the allocation of the land under K4, that the principle of the development in proximity to this Listed Building has been accepted by the Council and, as such, it is only to be considered whether any specific impacts from the layout and design of the proposed residential development would be so significantly harmful to warrant refusal of the application. The amendments to the scheme result in preserving the existing hedgerow that separates the site from Derby Road at its western extent, as well as the Listed Building. This degree of separation is considered an improvement to the originally submitted scheme and necessarily reduces the impact of the proposal on the heritage asset. This is also considered to help to assimilate the development into its wider semi-rural surroundings within the AONB.

Therefore, although there would be a change to the setting of the Listed Building, which currently faces the site as an undeveloped field, the retention of the green buffer would retain something close to the relationship between the heritage asset and the site. This is considered to be acceptable. The impacts on its setting are not considered significant enough to warrant refusal of the application as they would conserve the setting of the Listed Building, especially as the site is already allocated for development.

Impact on Residential Amenity of Existing Properties

The site faces the industrial development of Garden Mill Industrial Estate, across Derby Road, as previously noted, a narrow lane. The nearest residential property, at the Derby Road side of the site is Buttville House, a Listed Building. In regard to the impact of the proposal on this property’s residential amenity, it is recognised that the retention of the Derby Road hedgebank ensures more screening of Buttville House than was the case with the original application. The revised layout shows a very marginal change to the position of the terrace nearest the Listed Building, moving this row further away. The objection letter

submitted on behalf of the occupiers of Buttville House acknowledges that there is a 34 metre distance between the nearest built form in the northwestern corner of the site and the Listed dwelling. The end elevation of the terrace is shown as blank and a condition recommended above would prevent the later insertion of windows in this elevation. At a distance from the end of the terrace of 24 metres to the edge of the site, with Buttville House set back across Derby Road, it is considered that there would be no resulting overbearing impact on the Listed Building's residential amenity and no loss of privacy, subject to compliance with the relevant condition. This assessment also makes allowance for the proposed dwelling standing on higher land than the Listed Building, the time of year and the fact that a balcony forms part of the design of the proposed dwellings.

At the Eastern edge of the site, the closest residential properties would be those bungalows at the end of three culs-de-sac that extend up to the site's boundary: Barton Close, Hillside Drive and Fairfield Close. This boundary of the site is marked by a mature hedgerow which provides good separation. The proposed dwellings would meet the existing in a back garden to back garden relationship with a minimum wall to wall distance of 16 metres between the proposed and the existing. Given the low relative height of the bungalows, the slope of the hill with the bungalows on higher land and the proposed development stopping short of the boundary, it is considered that the proposal would not result in loss of privacy or loss of daylight for either the bungalows or future occupiers of the residential development. This is even taking into account that the nearest dwellings on this side of the site would be three storeys tall.

The impact of the proposal on the amenity enjoyed by occupiers of surrounding and adjoining properties is not considered harmful. While it is accepted that development of the site will impact on surrounding properties by way of view, this is not an overriding material reason to refuse the application.

Therefore, the impacts on neighbours from the development are considered acceptable. Other concerns expressed by neighbours regarding traffic, landscape/AONB impact, drainage and affordable housing are addressed within the relevant sections of this report.

Open Space, Sport Recreation

The indicative plan does not show how a type of layout for play and parks could be achieved. Policy DP8 requires the provision of either on site or off site support for two or more dwellings. The context for this is further explored in the Council's Public Space Strategy, SPD on Open Space Sport and Recreation and the Infrastructure Delivery Plan contained within the Kingsbridge Site Allocation Development Plan Documentation itself.

There is a basis for seeking a financial contribution towards the increase or improvement of sports facilities in the Recreation Ground, Kingsbridge. The draft Section 106 includes a clause that uses a formula in accordance with the SPD on Open Space Sport and Recreation. This requires the precise financial contribution to be calculated, based on the final number of houses being provided, the anticipated occupier rates and the level of financial contribution for outdoor sport. Although the contribution sought is £380 per resident, it is considered that in this case, since the viability of the proposal has been tested, this contribution cannot be justified to the extent that affordable housing and education can. As a result, with recreational facilities in place and equipped to a reasonable extent at present, this contribution is not being pursued, in favour of securing the maximum number of affordable dwellings.

Public Rights of Way

The site impacts on a Public Footpath (No. 18, Kingsbridge). Footpath No. 18 runs east-west, linking the previous residential development at the top of the hill with the town centre, via Derby Road and/or Waterside Park. There would appear to be a need for a minor diversion under the T&CP Act and this has been recognised by the applicant. It is noted that there has been no objection raised by Devon County Council in regard to this aspect of the proposal.

Education

Devon County Council Education has provided a consultation response requesting £87,556.80 towards secondary school places. A sum towards this is included in the S106 Agreement, but in view of the intention to achieve the highest number of units of affordable housing, only a claw-back provision will contribute towards education.

Planning Contributions

As set out in the paragraphs above, the planning contributions do not meet policy requirements, in terms of open space and recreation, education and the level of affordable housing. The offer has been considered by the Affordable Housing Team which considers that the offer represents the most that the site is able to yield while remaining viable. For the reasons given above, an open space contribution is not being sought and the requested education contribution would only be met in part or entirely through a claw-back clause in the Section 106 Agreement, in case the site generates additional profit above what was anticipated in the independent assessment.

Conclusion

The application seeks outline planning permission, with the only detailed matter to be considered after the determination of this application being landscaping. The application site lies within the Land Allocation K4 and given the status of the site, the main consideration of this application is whether this scheme accords with policy in specific terms.

It is considered that the proposed development would deliver an acceptable level of housing at the site without unacceptable impact on the character and appearance of the AONB.

Whilst the layout demonstrates how housing, open space, play provision and cycle and footpaths would be accommodated upon the land, it includes green buffers to surrounding housing. The details of the landscaping will be subject to a separate Reserved Matters application to be considered on its merits, but at this stage, with the layout determined, approval would ensure that such buffers are established as part of the subsequent Reserved Matters scheme. This aids the development to assimilate itself into the semi-rural surroundings within the AONB.

No overriding technical objections have been raised to the application.

With regard to the objections raised in the letters of representation, the main areas of concern relate to possible highway and pedestrian danger, harm to the landscape/AONB, harm to residential amenity, lack of justification for the enlargement of the allocated site, flooding danger from surface water run-off, impact on the nearby Listed Building, lack of detail on the plans and that there is no affordable housing provision. The majority of these issues have been addressed above.

The application is recommended for approval, subject to conditions and a S106 Agreement.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

National Planning Policy Framework

In particular paragraphs 1, 7, 8, 9, 11, 14, 17, 18, 19, 47, 49, 55, 112, 115, 116, 118, 128, 129, 132, 133, 134, 196 and 197

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS10 Nature Conservation

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

DP11 Housing mix and Tenure

Kingsbridge Site Allocations DPD – February 2011

Proposal K4: Garden Mill, Kingsbridge

South Hams Local Plan (please delete as necessary)

SHDC 1 Development Boundaries

Planning Obligations SPD, adopted December 2008

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and the Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

PLANNING APPLICATION REPORT

Case Officer: Gemma Bristow

Parish: Kingswear **Ward:** Dartmouth and East Dart

Application No: 0253/16/FUL

Agent/Applicant:

Mrs Amy Roberts
Sowton Business Centre
Capital Court
Bittern Road
Exeter
EX2 7FW

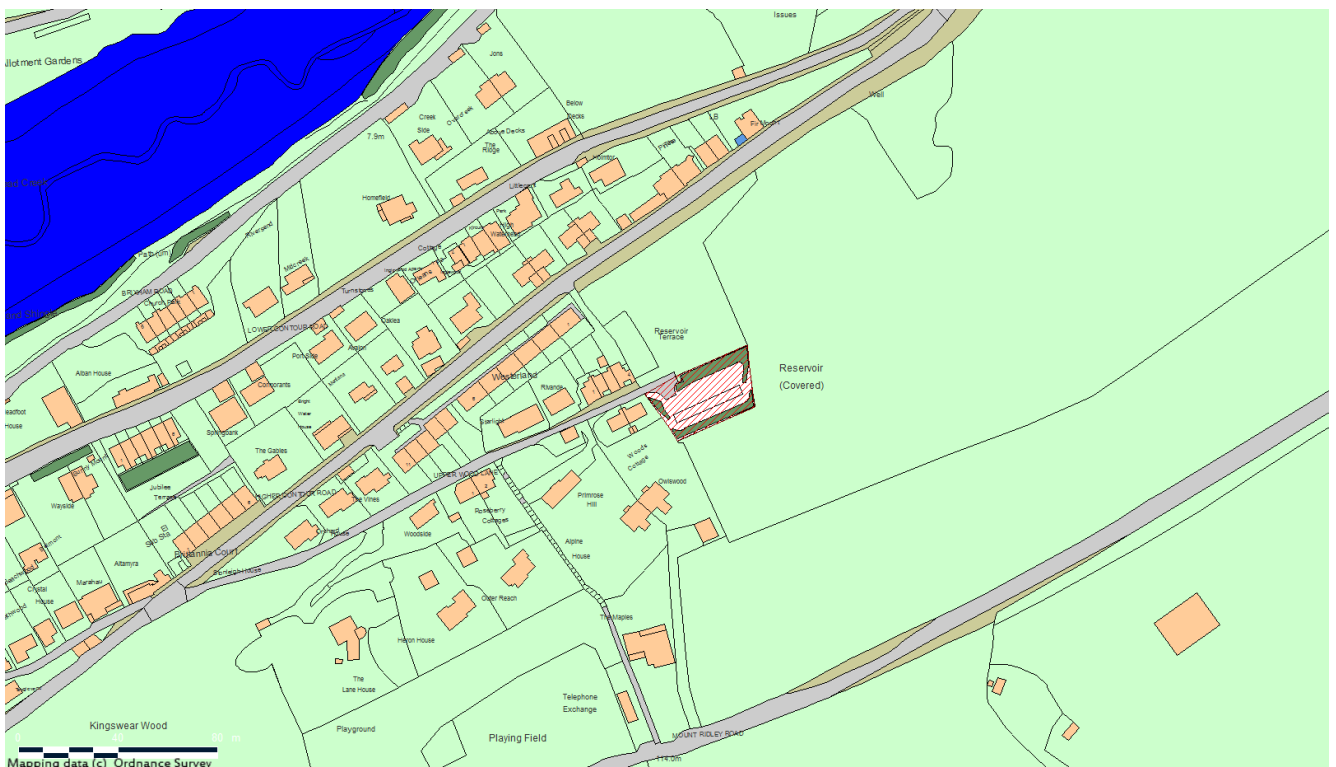
Applicant:

C/O Agent

Site Address: Putts Reservoir, Upper Wood Lane, Kingswear, Devon, TQ6 0DH

Development: Application for redevelopment of brownfield site (redundant reservoir) to provide one dwelling

Reason item is being put before Committee: At the request of Ward Councillor who cannot support officer recommendation



Recommendation:

Condition approval

Conditions

Time

Accord with plans

Details of landscaping, including natural planting

Construction management plan

Unsuspected contamination

Details of reptile method statement

Removal of vegetation outside of bird nesting season

Adherence to the Arboricultural report

Key issues for consideration:

Principle of the location

Design and visual impact on landscape

Transport

Ecology

Site Description:

0.09ha site consisting of the redundant Southwest Water Putts Reservoir site, located at the eastern end of Upper Wood Lane that forms the eastern boundary of the Kingswear settlement. The site is bounded by a wooded slope to the north, agricultural land to the east, agricultural land and residential properties to the south and housing on Upper Wood Lane immediately to the west. The site is accessed via Upper Wood Lane.

The site is within an Area of Outstanding Natural Beauty and the site is subject to a Tree Preservation Order.

The Proposal:

Erection of a two-storey, three bedroom dwelling, with an internal garage and space for parking/turning. The dwelling would be cut into the bank and have flat green roofs, it would have a raised ground floor terrace and a first floor terrace on the west side of the dwelling.

Materials: Walls timber cladding at first floor and natural stone at ground floor, galvanised metal gutters and downpipes, windows and doors powder coated aluminium light grey colour, retaining wall around raised terrace to be natural stone.

In support of the application the applicant has submitted:

- Planning Statement – Ben Cornwell LLP
- Landscape and Visual Impact Appraisal – Redbay Design
- Arboricultural Survey – Advanced Arboriculture
- Letter from Transport Planning Liaison
- Ecological Impact Assessment – Ambios Ecology
- Contaminated Land Survey – ASI Ltd
- Landfill Gas Assessment – LG Solutions
- Drainage Strategy – Clarke Bond

Consultations:

- County Highways Authority – no objection, standing advice
- Environmental Health Section – no objection, subject to condition on unsuspected contamination

- Town/Parish Council – objection on the grounds it is a prominent site overlooking the River Dart Valley, Dartmouth, in AONB and coastal preservation area, outside of development boundary surrounded by established hedgerows and visited by curlew buntings. Located at the end of an unadopted track with limited parking so it would cause extensive traffic problems.
- Specialist landscape officer - The LVIA is sound and officers broadly concur with the findings and appraisal, the viewpoints are noted. The report submitted by Advanced Arboriculture is sound and officers broadly concur with its findings. Further comments are included in the analysis section below.

Representations from Residents

10 objections have been received and cover the following points:

- Outside the settlement boundary
- Woods Lane used Kingswear Primary school and no risk assessment submitted
- Woods Lane has no turning spaces
- Woods Lane is not suitable for heavy vehicles
- Disruption from construction
- Heavy vehicles do not currently access the reservoir so no net improvement
- Insufficient space during construction for vehicles to turn
- Loss of trees will harm the visual amenity of the area
- Loss of habitats
- There has been no local consultation
- The five bar gate is shared access with Boohay Estate, Hightrees and SW Water –there the development would block access during construction
- It will create a high value house when the town needs lower value housing
- Boohay Estate claim to own the rights to the site and have not been consulted or will grant access
- Wood Lane is the main water supply and also sewage for Upper Wood Lane
- Curlew bunting have been seen on site
- Although unused the existing reservoir could be brought back into use if needed
- The ecology surveys were not undertaken at the correct time.
- Much wildlife on the site
- Wood Lane is considered unsuitable for waste collection lorries

Relevant Planning History

None relevant

ANALYSIS

Principle of Development/Sustainability:

The site of the proposed dwelling is adjacent to but outside the settlement boundary of Kingswear and as such policy CS1 states development will only be permitted where it 'can be delivered sustainably and in response to a demonstrable local need'. In addition, policy DP15 sets out the conditions in which development in the countryside may be acceptable. It is noted that the proposal would not meet the criteria (a) on the essential needs of agriculture or forestry and neither would it meet (b) 'the essential, small scale, and exceptional local development needs of a settlement which cannot be met within development boundaries.' However, due to the Council's failure to demonstrate a five year supply of land for housing, the continued integrity of the relevant local planning policies is subject to challenge. Officers are obligated to consider each proposal against the criteria for sustainable development set out within the National Planning Policy Framework.

It should also be noted that the site is considered to be a B8 Use Class Storage Facility and a brownfield site. However, as the site is in the AONB change of use from B8 to C3 is not deemed permitted development as prescribed by the Town and Country Planning (General Permitted Development)(England) Order 2015 (hereinafter referred to as the GPDO 2015).

In this instance, great weight is given to the fact the site adjoins the Development Boundary of Kingswear. In addition, further weight is also afforded to the fact that this is a brownfield site, and given the cost of developing the site limited other uses are considered likely to be viable. The site is considered by officers to be a sustainable location with specific regard to access to services, being a sensible walking distance to the services provided within the town.

These specific, mitigating factors are considered by officers to provide the justification for which a departure from the development plan can, in principle, be supported.

Design/Landscape:

The proposed house would be cut into the steep bank such that only part of it would project forward. The existing water reservoir would be converted into back of house storage, utilities spaces as well as a TV room at ground floor with a study and bathroom at first floor level. The dwelling has been designed with large flat green roofs across the existing structure and the two-storey extension which are considered to help blend the proposal into the surrounding landscape. In addition, the use of natural stone and cladding is considered to help soften the appearance of the new dwelling in this edge of settlement location.

The landscape and visual impact assessment has concluded that the study area with the AONB has a medium-high sensitivity to the proposed dwelling. While it was considered there would be some harm to the landscape in the short term due to the loss of trees/vegetation on the site, this is considered to correct over 7-10 years as the new planting matures. While the proposed building is different in design and materials to the surrounding houses, the proposal is considered appropriate to its subterranean setting and edge of settlement location. The study concludes that due to the small scale of the development, retention of some trees and the limited opportunities to view the site from within Kingswear and surrounding area the proposal would not harm the character of the area over the medium to long term.

The council's landscape specialist concurs with the findings of the applicant's landscape appraisal. The overall impacts are considered limited in nature given the context, scale and massing of the proposal on this brown field site. The land rises steeply to the south, behind the proposal, and is well screened from the south and east. To the north is a woodland and this also restricts views. Overall the site is visually constrained locally, with the impact of distant views low. The impact on character is also limited given the existing use and relationship to existing residential dwellings to the west; the wider character is maintained in accordance with policy.

Trees

It is proposed that six trees would need to be felled, all on the north eastern part of the site. In addition, tree T1 on the western border would need to be coppiced and the trees along the southern boundary of the site coppiced three years from completion of the works. Nevertheless, replacement planting of eight trees is proposed around the north, east and southern boundary of the site.

The Arboricultural Impact Assessment is clear and identifies the issues around development and long term management. The survey appears sound with the majority of the trees within the 'C' Category. It is acknowledged that works are required to the trees separately to the impacts resulting from the proposed development as part of an overall management strategy. However, with the proposed development management can still be achieved and a number of the protected trees retained under more focused works including re-coppicing.

The presence of the TPO is noted and has been carefully considered in the context of the proposal. The TPO provides the Council with the opportunity to review the site in context (with current tree stock) and assess any proposal in a timely manner, without the threat of premature felling. The order was modified from an Area order to two groups of trees. Officers believe the amenity can be retained longer term and any new tree planting considered for protection as part of mitigation.

The Council's specialist arboricultural officer raises no objections, but states that the development should be conditioned with adherence to the recommendations and guidance in the applicant's arboriculture report, including tree protection. Whilst it is acknowledged that the impacts will be clear initially, there are opportunities to mitigate the proposal medium term through new planting and tree management.

Neighbour Amenity:

In terms of amenity, the two-storey extension to the dwelling would be over 14m from the adjoining Woods Cottage. It is noted the side elevation of Woods Cottage contains a window, however this would face the adjoining bedroom window in the proposed dwelling at an angle, and would be further obscured by the retaining wall of the terrace and the handrail of the existing steps leading up the roof of the existing reservoir. While it is acknowledged that the use of the proposed first floor terrace may lead to some additional noise, given the existing close relationship of houses on Upper Wood Lane this is not considered to cause significant harm.

The proposed dwelling is therefore considered acceptable in terms of its impact on the amenity of the surrounding neighbours.

Highways/Access:

The dwelling would be accessed via Upper Wood Lane and the Highways Authority standing advice would apply. The plans have illustrated there would be space for vehicles to turn and parking for two vehicles, which includes one within the internal garage.

Residents have raised concerns that access leading up Upper Wood Lane is very narrow with limited passing spaces, contrary to the assertion in the application that there are ad-hoc passing spaces with good intervisibility. While officers agree that Upper Wood Lane is narrow with limited passing spaces, given this situation already exists, and despite the additional vehicle movement from the proposed dwelling, this is not considered a valid reason for refusal. The NPPF states that 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.' In this case the cumulative impacts are not considered to be severe as the additional pressure from one new dwelling is not considered to be significant.

Concerns have also been raised on the disruption from construction, and in particular heavy construction vehicles. Due to the restriction on access to the site it is recommended that a construction management plan is conditioned that would, amongst other areas, deal with the delivery of materials to the site. The proposed long term residential use of the site is not considered to result in safety issues by the increase in vehicles using Upper Wood Lane.

Ecology:

The applicant's ecological impact assessment states that no protected species were identified on the site, and due to the limited structures and vegetation on the site it was also stated there is limited habitats for bats, nesting birds including Cirl Bunting. Nevertheless the specialist ecology officer has commented that the planting scheme should include some natural planting to compensate for the lost 'scrub' with its inherent bird nesting potential. In addition to a condition on landscaping details to include natural planting referred to above, conditions on reptile method statement and vegetation removal are also proposed.

In terms of when the ecology surveys were undertaken the Council's ecology specialist has stated that an initial survey can be taken at any time during the year (albeit that some months are better than others) and for non-sensitive sites this would be fine. It is noted that only detailed 'phase 2' protected species or vegetation surveys that have to be undertaken in a specific season.

Drainage

The applicant's drainage strategy states all surface water from the roofs and terracing areas will be attenuated on site, and the existing tarmac area will be drained via dispersed infiltration providing betterment to the overall surface water management. In addition, due to the sensibility to high

intensity rainfall, an exceedance system will be incorporated to handle these events. Foul water will be connected into the Southwest water combined sewer network located on Upper Wood Lane. Southwest Water have confirmed the connection into the existing network would be acceptable.

Other Matters:

The issue of access through the existing gate to the site is a private legal matter for the landowner to resolve so it outside the remit of this application. Southwest water have also confirmed that the reservoir is surplus to requirements and will not be brought back into use.

Conclusion

In conclusion, while the application site lies outside the settlement boundary of Kingswear, it adjoins this boundary and would be contiguous with the housing on Upper Wood Lane. It is therefore considered a sustainable location and so a departure from policy can be supported in this case. The design and materials are also considered acceptable, and subject to details of a full landscaping scheme it is considered to have a neutral impact on the landscape character in the medium to long term. The issues raised on transport are not considered to be severe to warrant a refusal, and issues on construction could be mitigated by a construction management plan. The proposed new dwelling is therefore recommended for conditional approval.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy

National Planning Policy Framework

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS10 Nature Conservation

CS11 Climate Change

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

DP15 Development in the Countryside

DP16 Conversion and Reuse of Existing Buildings in the Countryside

DP17 Residential Extensions and Replacement Dwellings in the Countryside

South Hams Local Plan (please delete as necessary)

SHDC 1 Development Boundaries

DP 7 Kingswear

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart

Parish: Dartington **Ward:** Dartington and Staverton

Application No: 14/1785/15/F

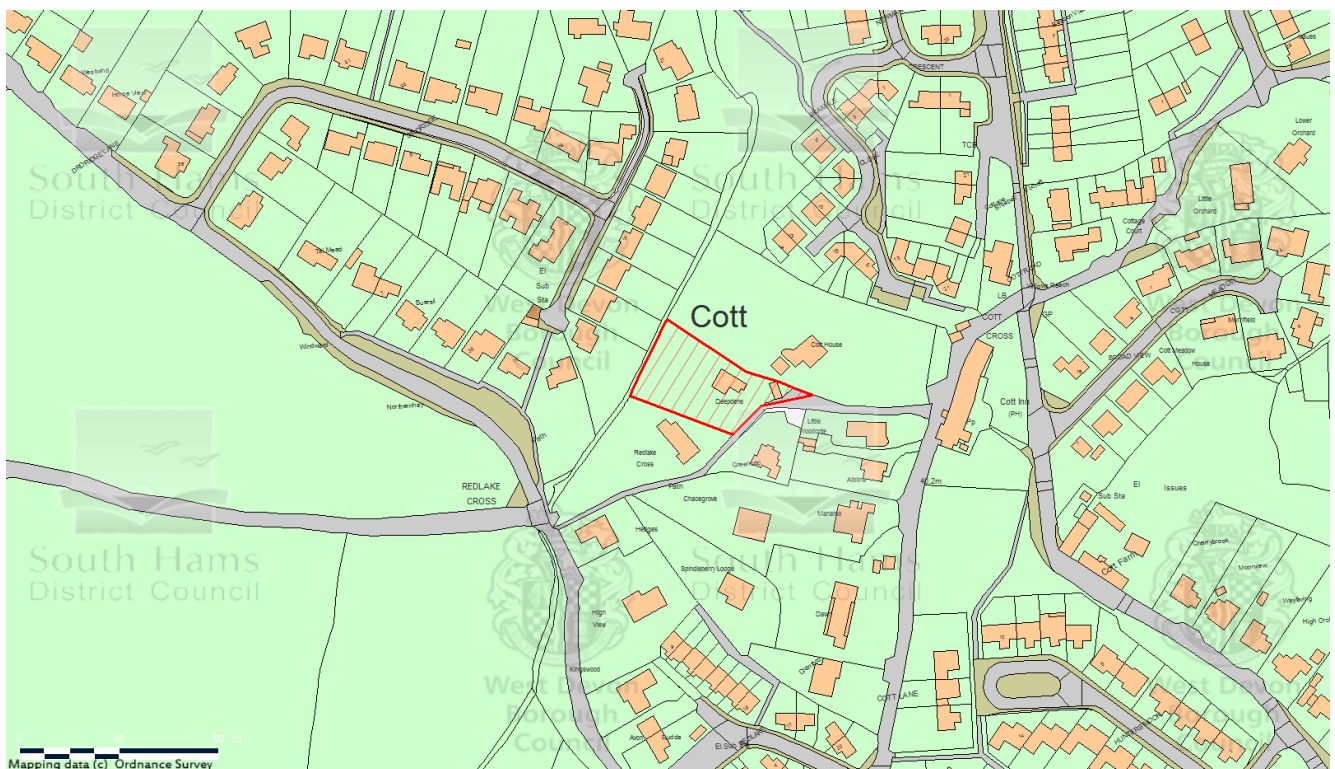
Agent/Applicant:
Stan Bolt Architect
The Old Museum
Higher Street
Brixham
Devon
TQ5 8HW

Applicant:
Mr & Mrs Morgan
Deepdene
Cott Lane
Dartington
Totnes
TQ9 6HE

Site Address: Deepdene, Cott Lane, Dartington, Totnes, TQ9 6HE

Development: Erection of detached dwelling and associated parking within the garden

Reason item is being put before Committee: This application has been brought by the Ward Member due to concerns regarding ecology and neighbour amenity



Recommendation: Conditional approval

Conditions

1. Time limit
2. Accord with plans
3. Final drainage scheme
4. Lighting Strategy
5. No land raising in identified Flood Zone 2 area
6. Accord with recommendations of the Preliminary Ecological Appraisal
7. Removal of permitted development rights

Key issues for consideration:

Principle, design, visual impact, flood risk, ecology, neighbour amenity.

Site Description:

Deepdene is a detached dwelling situated to the east of Cott Lane with access via a narrow lane. The northern boundary adjoins the curtilage of Cott House, with Red Lake Cross to the south. The western boundary is marked by a stream, with the existing residential properties along Droridge beyond. The access lane runs to the south of the site towards Red Lake Cross. The existing dwelling is located towards the eastern end of the plot, with a large garden sloping down to the stream to the west. There is an existing garage and store in the eastern corner of the site adjoining the lane. The surrounding area is largely characterised by low density detached dwellings set within spacious gardens.

The site is located within the Dartington Development Boundary. Part of the western end of the site lies within Flood Zone 2. The access lane to the east and south is a Public Right of Way.

The Proposal:

The application proposes the erection of a detached dwelling within the existing garden of Deepdene. The proposed dwelling would be two storey and set into the slope of the land. The design is contemporary in nature, essentially taking the form of a timber clad box with a flat planted roof. The property would principally face out to the north west towards the stream, with access doors to the ground floor level on the north east (side) elevation and external stairs on the south west elevation leading up to sliding door system at first floor level which would open onto a covered terrace area. The external finishes would include some elements of render alongside the timber cladding, with dark stained timber windows.

Access to the new dwelling would be via a pedestrian ramp constructed around the retained garden area of Deepdene. The existing garage serving Deepdene would be demolished along with the storage shed, and a new access/parking arrangement to serve both properties would be configured. A timber carport to serve the new dwelling would be constructed at the southern end of the access/parking area.

It is also proposed to reinstate the existing terrace serving Deepdene.

Consultations:

- County Highways Authority – No objection subject to condition to agree Construction Management Plan
- Environmental Health Section - No objection subject to unsuspected contaminated land

condition to be placed on any permission granted

- Trees – No objection subject to condition
- Ecology – Concern regarding light spillage can be addressed by condition
- Environment Agency – No objection subject to conditions and compliance with the Sequential Test
- Dartington Parish Council – Minutes of meeting state: “*The Planning Committee had met at the site. No objections were raised.*”

Representations:

4 letters raising objection to the application have been received, with concerns raised summarised as follows:

- Ecology – impact on woodland corridor. Submitted survey focuses on footprint of development rather than impact on woodland habitat as a whole. Further survey work should be carried out.
- Loss of trees - consider need for Tree Preservation Order(s).
- References to ‘Roof Terrace’
- Overbearing/privacy impact on neighbouring properties in Droridge.
- Overlooking to Cott House
- Impact of construction works on public footpath which is shared with the access drive – access during construction and maintenance.
- Drainage and pollution
- Reinstatement of deck serving Deepdene not fully shown on plans. Overlooking concerns.
- Noise during building works.
- Protection of third party fencing.
- Lack of precedent.
- Not all neighbouring properties were consulted by Applicant as suggested by documentation.
- Boundary line between Deepdene and Cott House incorrect.

Relevant Planning History

None identified

ANALYSIS

Principle of Development/Sustainability:

The site is located within the Dartington Development Boundary, where new residential development is acceptable in principle and in accordance with the NPPF (which supports development in sustainable locations). This is subject to consideration of all other relevant development plan policies and site specific material planning issues as detailed below.

Design/Visual Impact:

This area of Dartington features a variety of architectural styles and the new contemporary dwelling would not necessarily be out of keeping in this context. The existing dwellings in the locality are generally detached within reasonable sized plots. The proposed development would introduce a new dwelling into what is currently the garden area of Deepdene. The site is not considered to be visually prominent from public vantage points in the immediate locality, and as such the subdivision of the existing Deepdene plot would not have a significant impact on the character of the area. The design of the proposed dwelling is considered acceptable as a piece of contemporary architecture, and having

regard to the context of the site and limited public visibility would not harm the character of the area. The proposed pedestrian access ramp to the new dwelling is slightly unconventional but does not raise any real policy objection.

Should the application be approved, it is considered there is sufficient detail on the submitted plans to avoid the need to condition materials samples (noting that the site is not in a visually prominent location). Additional plans of the proposed pedestrian access ramp to the new dwelling were requested and submitted during the life of the application.

Ecology:

The application is accompanied by a Preliminary Ecological Appraisal. The Appraisal considers that the site is of limited ecological value, noting that the site is generally unsuitable for bat foraging and isolated from woodlands or hedgerows that might hold a breeding population of dormice. It does not consider that any further survey work is required.

Ecological concerns are raised in representations, which suggest that further survey work should be carried out before a decision is made on the application. The Council's Ecologist has reviewed the submitted information and concluded that whilst further survey work in respect of light spillage to the nearby stream and impact on bat populations would be preferred, a pre-commencement condition to secure a lighting strategy to demonstrate there would be no additional light spillage is an acceptable solution. The Council's Ecologist commented that the permission could not be implemented if this condition is not satisfactorily addressed. It should be noted that technically any planning permission which includes conditions requiring further details to be agreed cannot be implemented if those conditions are not satisfied.

Trees:

The application is also accompanied by an Arboricultural Report. Five trees were identified which could reasonably be affected by the proposal, with two considered to be a constraint on development (identified as T3 and T4). Tree protection measures are included within the report to ensure the protection of retained trees.

Concern has been raised in representation regarding the loss of trees on the site, with the suggestion that TPOs be considered. The Council's Tree Specialist has reviewed the application and raised no objection subject to a condition to secure tree protection measures. The trees are not considered to be of sufficient public amenity value to be worthy of further protection through an order.

Drainage:

A drainage scheme forms part of the application submission. It is considered there is sufficient detail to enable the final details to be agreed by condition.

Flood Risk:

The Environment Agency originally objected to the application on the grounds that the submitted Flood Risk Assessment was inadequate and did not satisfy the requirements of the NPPF. Further information was then provided by the Agent, but the Environment Agency maintained their objection. The main issue was the interpretation of the Environment Agency's flood zone mapping and how much of the site lies within Flood Zones 2/3. Additional hydrology work was commissioned by the Applicant and formally submitted as a revised FRA, and it has now been demonstrated to the satisfaction of the Environment Agency that only a small part of the western end of the site lies within Flood Zone 2. The actual siting of the proposed new dwelling is further to the east.

On the basis of the revised FRA, the Environment Agency advised they can remove their objection providing planning conditions can be imposed to ensure: 1) No land raising with the identified flood

zone area in the FRA, 2) removal of permitted development rights within the identified flood zone area. The Environment Agency also stated that as part of the site is still within Flood Zone 2, the LPA still need to be satisfied that the Sequential Test has been satisfied in accordance with the NPPF.

The conditions requested by the Environment Agency could be reasonably imposed as part of any decision to approve the application. The revised FRA shows that only a small part of the site lies within Flood Zone 2, and this does not include the area of the proposed new dwelling or its access. The area in question currently forms part of the garden area of Deepdene, and as it would become part of the garden of the new dwelling if the application were to be approved, no change of use/intensification of use would occur in the identified Flood Zone 2 area. On this basis Officers consider the proposal does not need to satisfy the Sequential Test in accordance with the NPPF.

Neighbour Amenity:

Neighbouring properties most likely to be affected by the proposal are Cott House to the north and north east and Redlake Cross to the south west. Cott House is a detached property set within a substantial garden. The dwelling itself sits slightly forward of the existing dwelling at Deepdene, and so the proposed new dwelling would be more clearly visible from within the rear garden of Cott House. There is an existing degree of overlooking between the application site (currently part of the garden of Deepdene) and on balance it is considered that the new dwelling would not result in a significant increase in overlooking to warrant refusal compared with the existing situation, and having regard to the size of the curtilage of Cott House. The new dwelling would not result in any other harmful amenity impacts. Concern has been raised regarding references to a 'roof terrace in the submitted documentation. The submitted plans show a partially enclosed terrace at first floor level of the new dwelling on the southern end of the property (facing towards Redlake Cross rather than Cott House).

Concern has also been raised regarding the reinstatement of the existing deck at Deepdene and whether this is adequately shown on the submitted plans. Officers consider that the plans do show sufficient detail to allow the application to be determined, and any further works beyond those shown would need to be made the subject of a further application if they did not comply with the permitted development regulations.

Consideration has been given to the impact of the proposed development on the existing dwelling at Deepdene. The property would still retain a good size private garden area, and would not be significantly overlooked by the new dwelling. The proposed access ramp would be set back from the existing dwelling and on balance is not considered to raise a significant concern to warrant refusal of the application (bearing in mind its primary purpose is just to provide access).

Concern has been expressed regarding the impact of the proposed dwelling on the neighbouring properties in Droridge. The dwellings along Droridge have sloping rear gardens which run down to the stream which adjoins the boundary with the application site. The new dwelling would be visible from within the boundaries of the Droridge properties opposite the site, but it is considered that the physical separation distance between them would not result in any unduly unneighbourly relationships. In addition it is considered that noise arising from the occupation of the new dwelling does not constitute grounds for refusal, noting that the site is currently a domestic garden from which noise can be generated.

Highways/Access:

Devon County Council have given due consideration to the proposed access arrangements, ultimately raising no objection subject to the inclusion of a Construction Management Plan condition as part of any approval.

Adequate parking provision has been made for the new dwelling and retained for the existing. It is considered prudent to include a condition to ensure the parking area for the new dwelling has been completed prior to occupation.

Other Matters:

In response to other issues raised in representations not considered above:

Disruption during construction works (access and noise) – a condition requiring a Construction Method Statement forms part of the recommendation to ensure these matters are appropriately dealt with. This issue does not form adequate grounds for refusal.

Protection of third party fencing – this is a civil matter and is not a material planning consideration.

Insufficient consultation with neighbours – this is not a statutory requirement for the Applicant to carry out prior to submission of a formal application. The Council carried out its own consultation exercise in accordance with the appropriate regulations and the comments received have been considered above.

Boundary line incorrect – The application has been considered on the basis of the plans as submitted which were considered acceptable for this purpose (noting that the proposed development is set back from the boundary line).

The Planning Balance:

The site is located within the Dartington Development Boundary, where new residential development is acceptable in principle. A revised FRA was submitted during the life of the application to address objections from the Environment Agency. The proposal is considered acceptable in all other planning respects, and it is considered that the concerns raised by third parties do not justify grounds for refusal in this case.

Overall the proposal is considered to accord with the relevant Development Plan policies and the NPPF, and as such is recommended for approval subject to conditions as detailed above.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy

NPPF

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS11 Climate Change

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP7 Transport, Access & Parking

South Hams Local Plan

SHDC 1 Development Boundaries

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

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PLANNING APPLICATION REPORT

Case Officer: Wendy Ormsby

Parish: Dartmouth **Ward:** Dartmouth and East Dart

Application No: 0901/16/FUL

Agent/Applicant:

Mr Ian Hodder
Tourism House
Pynes Hill
Exeter
EX2 5WS

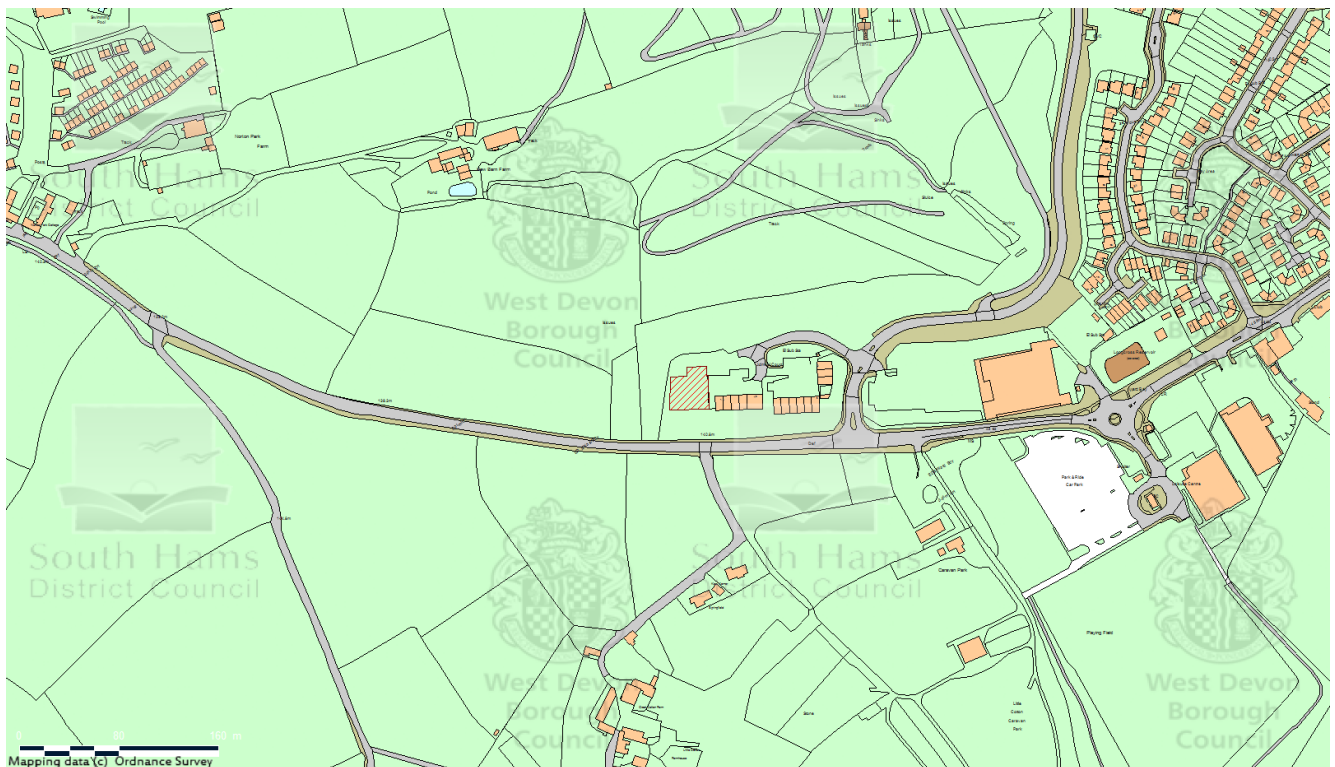
Applicant:

South Hams District Council
Follaton House
Plymouth Road
Totnes Devon
TQ9 5NE

Site Address: Admiral Court, Nelson Road, Dartmouth, Devon, TQ6 9HU

Development: Erection of 2no. terraces of industrial units (class B1)

Reason item is being put before Committee: Applicant is SHDC



Recommendation: Conditional Approval

Conditions:

Time
Accords with plans
Drainage details to be agreed
Materials to match existing units within site
Unsuspected contamination
Details of hardsurfacing to be agreed
Parking to be provided and retained

Site Description:

Admiral Court is an existing, small industrial estate on the western edge of Dartmouth. Access is from Nelson Road which runs to the east of the site, the A3122 main road into Dartmouth runs along the southern site boundary. Open countryside lies to the north and west.

The site is well screened from the main road by mature vegetation and bunds and there is screen planting surrounding the site.

Admiral Court currently accommodates 14 light industrial units with parking and circulation space.

The Proposal:

The western end of Admiral Court is an area of undeveloped, open land, currently used informally for vehicle circulation. It is proposed to extend the industrial estate into this area by constructing a terrace of 5 units on the southern part of the site and a pair of adjoined units to the north. The units will have similar appearance in design, scale and finishing materials to the existing.

The units will each contain a mezzanine floor at the rear, a full height roller shutter entrance and pedestrian entrance. In total 21 car parking spaces are proposed.

No changes are proposed to the existing site boundaries.

Consultations:

- County Highways Authority - no objection but recommends that the LPA consider how vehicles would turn/circulate within the development.
- Environmental Health Section - Recommends unsuspected contamination condition
- Town/Parish Council – Recommend Approval
- Drainage no objection subject to conditions requiring details to be agreed and implemented.

Representations:

No letters received

Relevant Planning History

15/0041/98/10. Engineering works to form access and levelled site for future industrial development Regulation 3 LPA own development pursuant to Economy & Employment Committee Minute EE 29/97. Land to the north of the A3122 West of Townstal Estate Dartmouth.

Conditional approval: 05 Mar 98

15/0535/06/DC

Construction of 5 industrial units and associated parking Regulation 3 LPA own development pursuant to a decision by Executive Minute No. E107/05 dated 5th January 2006

Admiral Court Nelson Road Dartmouth

Conditional approval: 18 May 06

15/0683/00/F

Construction of factory and offices Dartmouth Gateway Townstal Industrial Estate Dartmouth

Conditional approval: 20 Jul 00

15/0610/75/3

Outline application for part residential and part employment use B.1 B.2 & B.8 including landscaping and reservation of land for a proposed link road. Area west of Townstal Dartmouth.

Conditional approval: 26 Sep 96

ANALYSIS

Principle of Development/Sustainability:

This site is on the edge of Dartmouth, within walking distance of the residential area of Townstal; it is close to local facilities including shops and is within walking distance of the Park and Ride. The site is a sustainable location for employment uses, within walking distance of a potential workforce. The social and economic benefits additional employment creating uses would bring to the area also adds to the sustainability of the proposal.

Design/Landscape:

The site is well screened from the main road and existing planting on the north and eastern site boundaries is continuing to mature. The site is not unduly prominent in the landscape; the landscape impact is acceptable.

The proposed units will be of a similar design, scale and materials to the existing units and will create a satisfactory and appropriate expansion of the site.

Neighbour Amenity:

There are no residential properties in close proximity to the site. The proposed use is for light industry which by definition should not cause disturbance within a residential area.

On completion the development should not have an adverse impact on the existing occupiers of Admiral Court.

The impact on neighbour amenity is acceptable.

Highways/Access:

A sufficient number of car parking spaces are proposed, however of the 21 proposed, 4 spaces are stacked which is not ideal. As this is a private estate this will not impact on users of the public highway.

Normal, transit sized delivery vans will be able to park and turn using the forecourts of the new units. Very large vehicles however would not be able to turn in the new parking/circulation area unless the parking areas were empty. The consequence is that very large vehicles would either turn into the

courtyard of units 9/8/7 and then reverse back into the new development or having entering the new development in forward gear would then reverse and turn within the area in front of unit 11.

Again, this is not ideal but as this is a private road within a private estate, under the control of a single landowner it is reasonable to conclude that matters of safety and convenience can be adequately managed. Having regard to the small size of the units and relatively tight turns within the access road it is not anticipated that very large vehicles would frequently visit the site.

On balance, matters relating to highways and access are considered to be satisfactory.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004

Planning Policy

NPPF

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP7 Transport, Access & Parking

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

South Hams District Council Agenda Item 7
DEVELOPMENT MANAGEMENT COMMITTEE 8-Jun-16

Appeals Update from 25-Apr-16 to 27-May-16

Ward Dartington and Staverton

APPLICATION NUMBER : **14/2500/15/VAR** APP/K1128/W/16/3145944
APPELLANT NAME: Mrs S J Patchett
PROPOSAL : Removal of condition (d) of planning approval 14/1745/95/3 to allow separate residential unit (resubmission of 14/1960/14/VAR)
LOCATION : Glencoe Coach House, Dartington, Totnes, Devon, TQ9 6EU
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 16-May-2016
APPEAL DECISION:
APPEAL DECISION DATE:

Ward Dartmouth and East Dart

APPLICATION NUMBER : **2729/15/FUL** APP/K1128/W/16/3143633
APPELLANT NAME: Newcomen House Ltd
PROPOSAL : Proposed replacement of 10no. timber sliding sash windows with uPVC sliding sash windows at first and second floor level on elevation fronting Oxford Street
LOCATION : Newcomen Court, Oxford Street Dartmouth Devon, TQ6 9AJ
APPEAL STATUS : Appeal decided
APPEAL START DATE: 18-February-2016
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 20-May-2016

APPLICATION NUMBER : **30/1322/15/F** APP/K1128/D/15/3134407
APPELLANT NAME: Mr S Parker
PROPOSAL : Retrospective householder application for provision of raised platform
LOCATION : Bluewater House, Ridley Hill Kingswear, Dartmouth, TQ6 0BY
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 08-October-2015
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 09-May-2016

APPLICATION NUMBER : **3029/15/HHO** APP/K1128/W/16/3149141
APPELLANT NAME: Mr D Murphy
PROPOSAL : READVERTISEMENT (Affects Conservation Area) Householder application for alterations to Dormer on rear elevation at first floor
LOCATION : Yvan Tide, The Barnhay, Stoke Gabriel, Devon, TQ9 6RZ
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 19-May-2016
APPEAL DECISION:
APPEAL DECISION DATE:

Ward Marldon and Littlehempston

APPLICATION NUMBER : **34/1685/15/F** APP/K1128/D/15/3138206
APPELLANT NAME: Mr & Mrs Bennett
PROPOSAL : Householder application to raise the roof
LOCATION : 9 Meadow Park, Marldon, Devon, TQ3 1NR
APPEAL STATUS : Appeal decided
APPEAL START DATE: 24-December-2015
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 28-April-2016

Ward Newton and Yealmpton

APPLICATION NUMBER : **37/0355/15/F** APP/K1128/W/15/3134412
APPELLANT NAME: Mr R Monson
PROPOSAL : Erection of dwelling with 2No parking spaces
LOCATION : Land To The East Of 85, Newton,Ferrers, Devon, PL8 1DE
APPEAL STATUS : Appeal decided
APPEAL START DATE: 09-December-2015
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 05-May-2016

Ward Salcombe and Thurlestone

APPLICATION NUMBER : **41/0703/15/F** APP/K1128/W/16/3143575
APPELLANT NAME: Mr R Jemmett
PROPOSAL : Demolition of existing structure and erection of new dwelling and raised parking area
LOCATION : Proposed Development Site To Rear Of The Hollies, Devon Road, Salcombe, Devon, TQ8 8HQ
APPEAL STATUS : Appeal decided
APPEAL START DATE: 25-February-2016
APPEAL DECISION: Upheld (Conditional approval)
APPEAL DECISION DATE: 26-May-2016

APPLICATION NUMBER : **47/1324/15/F** APP/K1128/W/15/3139876
APPELLANT NAME: Mr J Stevenson
PROPOSAL : READVERTISEMENT (Revised access arrangements) Erection of new live/work building (3 bedroomed dwelling (C3), office (B1) and garage)
LOCATION : Proposed Site At Sx 6977 4263 Adj Collacott Barn, South Milton, TQ7 3JH
APPEAL STATUS : Appeal decided
APPEAL START DATE: 13-January-2016
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 25-April-2016

APPLICATION NUMBER : **2014/0292/BF** APP/K1128/C/16/3149049
APPELLANT NAME: Mr A Nicholls
PROPOSAL : Enforcement Appeal - Erection of a shed without the benefit of planning permission
LOCATION : The Grange, Cliff Road, Salcombe
APPEAL STATUS : Appeal lodged
APPEAL START DATE: 12-May-2016
APPEAL DECISION:
APPEAL DECISION DATE:

South Hams District Council
DEVELOPMENT MANAGEMENT COMMITTEE 8-Jun-16

Appeal Hearings/Public Inquiry from 8-Jun-16

Ward Charterlands

APPLICATION NUMBER : **05/0570/15/O** APP/K1128/W/16/3142708
APPELLANT NAME: C & S RODGER, R & E OGILVIE-SMALS, C & L HALL, J DAVIES
PROPOSAL : Outline application (with some matters reserved) for residential development of circa 8 dwellings with point of access, open space and associated infrastructure
LOCATION : Proposed Development Site At Sx 663 471 St Anns Chapel Bigbury Devon
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 25-February-2016
TYPE OF APPEAL **Informal hearing**
DATE OF APPEAL HEARING OR INQUIRY: 14-June-2016
LOCATION OF HEARING/INQ: The Watermark, Erme Court, Ivybridge, PL21 0SZ
APPEAL DECISION:
APPEAL DECISION DATE:

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Agenda Item 8

Report to: **Development Management Committee**

Date: **8 June 2016**

Title: **Affordable Housing Obligations**

Portfolio Area: **Customer First – Cllr Bastone**

Wards Affected: **All**

Relevant Scrutiny Committee: Overview and Scrutiny Panel

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: N/A

Author: **Pat Whymer** Role: COP Lead Specialist –
Development Management

Contact: email: pat.whymer@swdevon.gov.uk

Recommendations:

That the Development Management Committee agree:

- 1. That S106 Agreements on small scale residential development previously considered by the Development Management Committee be completed without the requirement for affordable housing or an affordable housing contribution; and**
- 2. That in cases where the S106 Agreement for a small scale residential development only related to the provision of affordable housing or a financial contribution to affordable housing, the applications are approved without the requirement for a S106 agreement.**

1. Executive summary

- 1.1** The DM Committee had previously granted conditional approval on a number of applications, subject to satisfactory completion of s106 agreements that included affordable housing or an affordable housing contribution.

- 1.2 Following a recent Court of Appeal decision relating to West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government, it is necessary to advise DM Committee Members of the impact of that decision on the previously granted applications.

2. Background

- 2.1 On the 28th November 2014 the Government announced changes to National Planning Policy Guidance with regard to affordable housing thresholds and other tariff style contributions such as open space. This resulted in the authority being unable to collect commuted sums or on site provision where 10 units or less of housing was proposed. A lower threshold of 6 units or more could be implemented for authorities whose boundaries covered Designated Rural Areas, National Parks and Areas of Outstanding Natural Beauty (AONB).
- 2.2 At the full Council meeting on the 12th February 2015 the proposal to adopt and implement the lower threshold of 6 or 10 units was agreed.
- 2.3 Subsequently on the 31st July 2015 the Government's decision to implement the change in policy was quashed by the High Court. This followed a successful legal challenge by Reading and West Berkshire Councils. This legal challenge resulted in paragraphs 012-023 of the guidance on planning obligations being removed. The Judgement is available under R (on the application of West Berkshire District Council and Reading Borough Council) v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).
- 2.4 At the special Council meeting on the 10 September 2015, Members agreed to revoke the interim planning obligations decision made by the Council on 12 February 2015 and revert to the previous adopted policy. Members also agreed that in order to keep the Council's policy in line with any further changes to Government guidance that if the Government introduce a higher affordable housing threshold, the Council would revert automatically to its 6 to 10 unit threshold policies agreed at the Council meeting on 12 February 2015 to avoid future delays in waiting for an appropriate committee to revert to a previously approved policy.
- 2.5 The Government successfully challenged the West Berkshire and Reading decision in the Court of Appeal and as a result reissued planning Practice Guidance (PPG) on 20 May 2016 which re-introduced the higher thresholds (with exceptions for rural and designated areas) in line with the original guidance of 28th November 2014.

- 2.6 The Court referred to the submissions of the Government previously that there remains the possibility for a Local Planning Authority to submit for examination local plan policies with thresholds below those in the national policy. It will then be for the Inspector to consider whether the LPA's evidence base and local circumstances justify the LPA's proposed thresholds. If he concludes that they do and the local plan policy is adopted, then more weight will be given to it than to the new national policy in subsequent decisions on planning applications.

Until the Council can demonstrate that it has a clear evidence base to support thresholds lower than those recommended in the guidance it will not be able to successfully defend any challenge.

3. Outcomes/outputs

- 3.1 There are a small number of applications for residential development of a scale below the re-imposed thresholds that have been considered by the Development Management Committee.
- 3.2 These applications have been granted delegated approval subject to the satisfactory completion of a S106, where the S106 has not, as yet, been completed and the committee resolution includes an affordable housing provision or contribution.
- 3.3 Agreement is sought to complete these S106 agreements without the provision of the affordable housing/affordable housing contribution in line with the re-imposed Government guidance.
- 3.4 The applications are set out below:
- a. 56/2221/15/O, Outline application with all matters reserved for 8no. three bedroomed houses with 8 parking spaces, Cocos Nursery, Ashburton Road, Totnes, TQ9 5JZ:
S106 in respect to affordable housing and open space, sport and recreation
 - b. 41/1023/15/F, Demolition of existing dwelling and erection of building to contain 6No apartments with associated landscaping and car parking, Spion Lodge, Bennett Road, Salcombe TQ8 8JJ:
S106 in respect to Affordable housing, Education and Open space. Sport and recreation.
 - c. 2659/15/FUL, Conversion of part of redundant premises to form two dwellings, Crooked Spire Inn, The Square Ermington, PL21 9LP:
S106 in respect of Affordable housing.

4. Options available and consideration of risk

4.1 The only alternative would be to continue with the Committee recommendations to approve the applications, following the completion of a s106, including the affordable housing provision. It is unlikely that the applicants would agree to the s106 given the circumstances as set out above. The likely outcome would be an appeal against the non-determination of the application and this could have cost implications to the Council.

5. Proposed Way Forward

5.1 Following the Court of Appeal decision, it is proposed to complete the previously agreed s106 agreements without affordable housing or affordable housing contributions, in line with re-imposed government guidance

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The legal implications are set out within the background section of the report. The report is necessary to provide clarity to the planning process and avoid potential challenges to the Council's decisions
Financial		There are no direct financial implications to this report if the recommendations are adopted
Risk		These are addressed in the body of the report
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications		

Supporting Information

Appendices:

None

Background Papers:

Report to full Council 12 Feb 2015

Report to Special Council 10 September 2015

R (on the application of West Berkshire District Council and Reading Borough Council) v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes/No
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	Yes/No

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