

# South Hams Development Management Committee



<b>Title:</b>	<b>Agenda</b>										
<b>Date:</b>	<b>Wednesday, 7th February, 2018</b>										
<b>Time:</b>	<b>2.00 pm</b>										
<b>Venue:</b>	<b>Council Chamber - Follaton House</b>										
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Steer</p> <p style="text-align: center;"><b>Vice Chairman</b> Cllr Foss</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Bramble</td> <td>Cllr Hodgson</td> </tr> <tr> <td>Cllr Brazil</td> <td>Cllr Holway</td> </tr> <tr> <td>Cllr Brown</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Cuthbert</td> <td>Cllr Rowe</td> </tr> <tr> <td>Cllr Hitchins</td> <td>Cllr Vint</td> </tr> </table>	Cllr Bramble	Cllr Hodgson	Cllr Brazil	Cllr Holway	Cllr Brown	Cllr Pearce	Cllr Cuthbert	Cllr Rowe	Cllr Hitchins	Cllr Vint
Cllr Bramble	Cllr Hodgson										
Cllr Brazil	Cllr Holway										
Cllr Brown	Cllr Pearce										
Cllr Cuthbert	Cllr Rowe										
Cllr Hitchins	Cllr Vint										
<b>Interests – Declaration and Restriction on Participation:</b>	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.										
<b>Committee administrator:</b>	Kathy Trant Specialist- Democratic Services 01803 861185										

- |   |                |
|---|----------------|
| <b>1. Minutes</b>   | <b>1 - 8</b>   |
| To approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Committee held on 10 January 2018;  |                |
| <b>2. Urgent Business</b>   |                |
| Brought forward at the discretion of the Chairman;  |                |
| <b>3. Division of Agenda</b>  |                |
| to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;   |                |
| <b>4. Declarations of Interest</b>  |                |
| 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;  |                |
| <b>5. Public Participation</b>  |                |
| The Chairman to advise the Committee on any requests received from members of the public to address the meeting;  |                |
| <b>6. Planning Applications</b>   |                |
| To see Letters of Representation and further supplementary information relating to any of the Applications on the agenda, please select the following link and enter the relevant Planning Reference number:<br><a href="http://apps.southhams.gov.uk/PlanningSearchMVC/">http://apps.southhams.gov.uk/PlanningSearchMVC/</a> |                |
| <b>(a) 3230/17/FUL</b>  | <b>9 - 18</b>  |
| Demolition of existing house to rebuild new dwelling Skerries, South Milton   |                |
| <b>(b) 2267/17/VAR</b>  | <b>19 - 28</b> |
| Variation of condition 3 of planning consent 17/1854/11/F to allow stables to be used for an equine business Farleigh Meadows, Totnes   |                |
| <b>(c) 2012/17/FUL</b>  | <b>29 - 36</b> |
| Use of land for siting a timber chalet as accommodation for a key worker in support of an equine breeding business for an initial   |                |

period of 3 years (Re-submission of withdrawn application  
0355/17/FUL)  
Farleigh Meadows, Totnes

- (d) 4325/17/PAT** **37 - 40**  
Application for prior notification of proposed development by telecommunications code systems operators for a 10 metre replica telegraph pole and 2 no. equipment cabinets Highways land adjacent car park, Huxhams Cross to Shinnars Bridge, Dartington
- (e) 3342/17/TPO** **41 - 46**  
Proposed works: T1- Silver Birch - FELL  
The Gothic House 4 Bank Lane Totnes TQ9 5EH
- 7. Planning Appeals Update** **47 - 50**

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**MINUTES OF THE MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE HELD AT FOLLATON HOUSE, TOTNES, ON WEDNESDAY, 10 JANUARY 2018**

<b>Members in attendance</b>			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr I Bramble (am only)	*	Cllr J M Hodgson (pm only)
*	Cllr J Brazil (pm only)	*	Cllr T R Holway
*	Cllr D Brown	*	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	*	Cllr R J Vint

**Other Members also in attendance:**

Cllrs Baldry, Bastone, Pennington, Tucker and Wright

**Officers in attendance and participating:**

Item No:	Application No:	Officers:
All agenda items		COP Lead Development Management, Planning Specialists, Deputy Monitoring Officer and Specialist – Democratic Services

**DM.37/17 MINUTES**

The minutes of the meeting of the Committee held on 29 November 2017 were confirmed as a correct record and signed by the Chairman.

**DM.38/17 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 J Brazil declared a personal interest in application **1894/17/FUL**: Enlargement of existing car park to provide up to 15 spaces and new car park to provide up to 10 spaces – Land at SX 740491 and 742 498, Avon Valley Woods, Hendon Road, Woodleigh by virtue of being a member of the Woodland Trust and he remained in the meeting and took part in the debate and vote thereon.

Cllr D Brown declared a personal interest in the following planning applications that were sited within the South Devon AONB by virtue of being a Member of the South Devon AONB Partnership Committee and remained in the meeting and took part in the debate and vote thereon:

- **3787/17/HHO**: Householder application for proposed gable roof extension – Bantham House, Bantham
- **3075/17/HHO**: Householder application for proposed alterations and extension – 21 Court Park, Thurlestone
- **1174/17/HHO**: Householder application for a proposed extension to an

- existing dwelling – Whitelands Barn, Thorn Farm, Venn
- **3117/17/FUL:** Replacement of existing dwelling with single dwelling – 59 Yealm Road, Newton Ferrers.

DM.39/17 **PUBLIC PARTICIPATION**

The Chairman announced that a list of members of the public and town and parish council representatives, who had registered their wish to speak at the meeting, had been circulated.

DM.40/17 **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:

**3787/17/HHO            Bantham House, Bantham**

**Parish: Thurlestone**

**Householder application for proposed gable roof extension  
(resubmission of 1851/17/HHO)**

Case Officer Update:            None

Speakers included:            Supporter – Mrs Debbie Crowther: Parish Council representative – Cllr Tony Goddard; local Ward Members – Cllrs Pearce and Wright

**Recommendation:**            Conditional Approval

During discussion, Members were broadly supportive but felt the design of the proposal could be improved if the gable were sloped rather than vertical. The agent indicated acceptance of the revision and the recommendation was amended accordingly.

**Committee Decision:**        Conditional Approval delegated to COP Lead in consultation with Chairman and local Ward Members, subject to receipt of revised plans showing changes discussed.

Conditions:

1. Standard time
2. Accord with plans
3. Materials to be agreed
4. Construction details
5. Details of doors and windows to be agreed

**3075/17/HHO      21 Court Park, Thurlestone**

**Parish: Thurlestone**

**Householder application for proposed alterations and extension**

Case Officer Update:      5 late letters of objection received, no new issues raised

Speakers included:      Objector – Ms Jenny Webb: Parish Council representative – Cllr Tony Goddard: local Ward Members – Cllrs Pearce and Wright

**Recommendation:**      Conditional Approval

During discussion, Members considered the elements of the proposal in detail, and comparisons were made with other properties in the vicinity. Whilst other properties had balconies, having had a site visit, some Members felt there would be an unacceptable impact on the neighbour at no. 22 of the proposed upper floor balcony.

**Committee Decision:**      Refusal

Reasons:

The proposed first floor balcony would result in an unacceptable degree of overlooking and significant loss of amenity upon the neighbouring properties within the immediate area and therefore would be contrary to Local Plan Policies Development Plan Document Policy DP3 (Residential Amenity) and emerging Plymouth and South West Devon Joint Local Plan policies DEV1 (Protecting amenity and the environment) and the National Planning Policy Framework in particular paragraph 17.

The drawings to which this proposal relates are drawing numbers 1330/04 (Location Plan) received by the Local Planning Authority on 21st September 2017 and drawing number 1330/05/F received by the Local Planning Authority on 9th January 2018.

**1174/17/HHO      Whitelands Barn, Thorn Farm, Venn**

**Parish: Stoke Fleming**

**Householder application for a proposed extension to an existing dwelling**

Case Officer Update:      None

Speakers included:      Supporter – Mr Mark Evans

**Recommendation:**      Refusal

During discussion, some Members agreed with the officer recommendation

of refusal. However, having been on site and considered that the proposal was hidden by virtue of landscape, and the innovative design and high specification of the proposal, the majority of Members felt the application should be approved.

**Committee Decision:** Conditional Approval

Reasons:

The extension complied with para's 135 of NPPF and Council's SPD.

### **Conditions**

- Standard time
- Accords with plans
- Samples of finishing materials
- Agreement on finish of doors and windows
- Constructional details at a scale of 1:20 of all eaves and verges shall be submitted to and approved in writing by the Local Planning Authority. All new and replacement fascia boards shall be fitted tight to the wall face. The barge shall be finished either with a close fitting board or natural slate, or the wall finish taken directly up to the underside of the roof covering.

**1239/17/FUL Totnes Road to Westerland Lane, Marldon**

**Parish: Marldon**

**Retrospective application for erection of horse walker**

Case Officer Update: None

Speakers included: local Ward Member – Cllr Pennington

**Recommendation:** Conditional Approval

**Committee Decision:** Conditional Approval

Conditions:

Accord with plans  
No more than 10 horses  
No more than one paid livery horse  
No external lighting on horse walker without consent

**1894/17/FUL Land at SX 740 491 and 742 498, Avon Valley Woods, Hendon Road, Woodleigh**

**Parish: Woodleigh**



### **Enlargement of existing car park to provide up to 15 spaces and new car park to provide up to 10 spaces**

Case Officer Update: None

Speakers included: Supporter – Mr Kenneth Papenfus: Parish representative – Cllr Hembrough: local Ward Member – Cllr Bramble (statement read)

**Recommendation:** Conditional Approval

During discussion, it was suggested that an additional condition be included requesting a management plan to include collection of litter

**Committee Decision:** Conditional Approval

#### **Conditions**

- Standard Time Limit
- Accords with plans
- Provision of post and rail fence
- No external lighting without consent
- Management plan to be submitted

**3117/17/FUL            59 Yealm Road, Newton Ferrers**

**Parish: Newton and Noss**

### **Replacement of existing dwelling with single dwelling**

Case Officer Update: None

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

**Recommendation:** Conditional Approval

Members had a detailed discussion on this application. A number of Members wanted to support the parish council position of refusal based on the emerging Neighbourhood Plan. Other comments included the proposal being in the wrong position on the site and not fitting into local context. Other Members felt the property was 'past its sell by date', and would be impossible to make energy efficient. There were other examples of modern design within the village.

It was **PROPOSED, SECONDED** and on being put to the vote declared **LOST**, that the application be refused.

**Committee Decision:** Conditional Approval

**Conditions**

1. Time limit
2. Accord with plans
3. Schedule of external materials
4. Mitigation in ecology report to be carried out
5. Unsuspected contamination condition
6. Removal of PD (extensions, outbuildings, roof alterations)
7. Hours of delivery between 9am and 5pm

**3207/17/ADV          New Mills Industrial Estate, Church Road, Modbury**

**Parish: Modbury**

**Advertisement consent application for erection of 1no. sign**

Case Officer Update:          None

Speakers included:          None

**Recommendation:**          Conditional Approval

**Committee Decision:**      Conditional Approval

Conditions:

1. Accord with plans
2. Standard advert condition – permission of site owner required
3. Standard advert condition – security
4. Standard advert condition – maintenance
5. Standard advert condition – public safety
6. Standard advert condition – tidy site after removal

**DM.41/17          PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report. The COP Lead Development Management presented further detail on specific cases.

(Meeting commenced at 11.00 am and concluded at 4.30 pm)

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Chairman

## Voting Analysis for Planning Applications – DM Committee 10 January 2018

<b>Application No:</b>	<b>Site Address</b>	<b>Vote</b>	<b>Councillors who Voted Yes</b>	<b>Councillors who Voted No</b>	<b>Councillors who Voted Abstain</b>	<b>Absent</b>
3787/17/HHO	Bantham House, Bantham	Conditional Approval	Cllrs Steer, Foss, Holway, Brown, Rowe, Cuthbert, Vint (7)	Cllrs Pearce, Bramble (2)	(0)	Cllrs Brazil, Hitchins, Hodgson (3)
3075/17/HHO	21 Court Park, Thurlestone	Refusal	Cllrs Foss, Pearce, Bramble, Brown, Vint (5)	Cllrs Steer, Rowe, Cuthbert, Holway (4)	(0)	Cllrs Brazil, Hitchins, Hodgson (3)
1174/17/HHO	Whitelands Barn, Thorn Farm, Venn	Conditional Approval	Cllrs Holway, Vint, Brown, Hodgson, Pearce, Brazil (6)	Cllrs Cuthbert, Rowe, Steer, Foss (4)	(0)	Cllrs Bramble, Hitchins (2)
1339/17/FUL	Totnes Road to Westerland Lane, Marldon	Conditional Approval	Cllrs Rowe, Steer, Foss, Holway, Vint, Brown, Brazil, Pearce, Hodgson, Cuthbert (10)	(0)	(0)	Cllrs Bramble, Hitchins (2)
1894/17/FUL	Land at SX 740 491 & 742 498, Avon Valley Woods, Hendon Road, Woodleigh	Conditional Approval	Cllrs Foss, Holway, Vint, Brown, Brazil, Pearce, Rowe, Steer, Cuthbert (9)	(0)	Cllr Hodgson (1)	Cllrs Bramble, Hitchins (2)
3117/17/FUL	59 Yealm Road, Newton Ferrers	Refusal	Cllrs Brazil, Pearce, Hodgson (3)	Cllrs Foss, Holway, Rowe, Steer, Cuthbert, Vint (6)	(0)	Cllrs Bramble, Hitchins, Brown (3)
3117/17/FUL	59 Yealm Road, Newton Ferrers	Conditional Approval	Cllrs Foss, Steer, Cuthbert, Holway, Rowe, Vint (6)	Cllrs Brazil, Pearce, Hodgson (3)	(0)	Cllrs Bramble, Hitchins, Brown (3)
3207/17/ADV	New Mills Industrial Estate, Church Road, Modbury	Conditional Approval	Cllrs Foss, Holway, Brazil, Pearce, Rowe, Steer, Hodgson, Cuthbert, Vint (9)	(0)	(0)	Cllrs Bramble, Hitchins, Brown (3)



## PLANNING APPLICATION REPORT

**Case Officer:** Matthew Jones

**Parish:** South Milton **Ward:** Salcombe and Thurlestone

**Application No:** 3230/17/FUL

**Agent/Applicant:**

Michael Stopher  
56 Fore St  
Kingsbridge  
TQ7 1NY

**Applicant:**

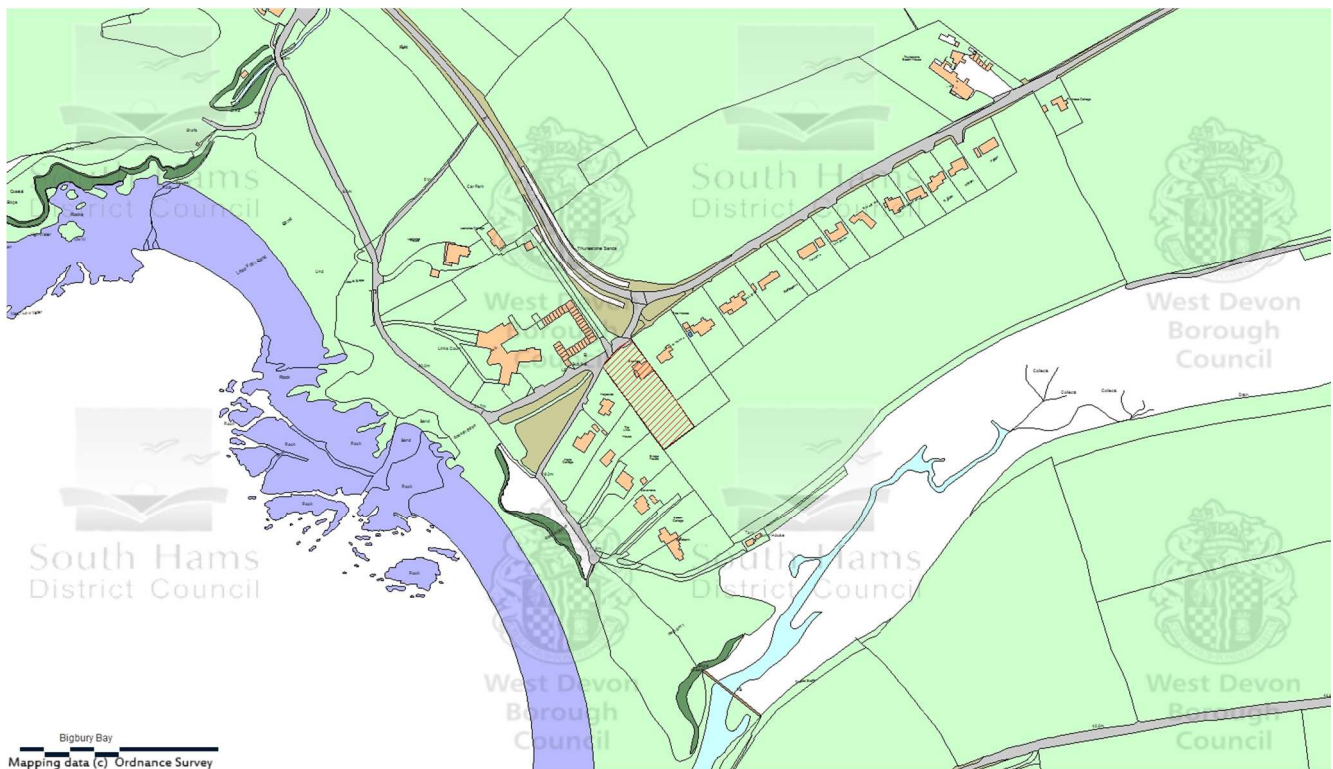
Mr Michael Stopher  
56 Fore Street  
Kingsbridge  
TQ7 1NY

**Site Address:** Skerries, South Milton, TQ7 3JR

**Development:** Demolition of existing house to rebuild new dwelling

**Reason item is being put before Committee**

The ward members have requested that the application be determined by the Development Management Committee because this is a very prominent site and concerns have been raised with regard to the design and its adherence to local distinctiveness, and the impact of the development within the AONB.



## **Recommendation:** Conditional Approval

### **Conditions**

Time  
Accord with Plans  
Samples prior to installation  
Eaves and verges details prior to installation  
Roof specification prior to installation  
Window details prior to installation  
Render details prior to installation  
Natural stone details prior to installation  
Landscape plan prior to commencement  
Detailed drainage prior to commencement  
Retain garaging for parking of motor vehicles  
Conform to recommendations of ecological survey

### **Key issues for consideration:**

The main issues are the massing and design of the proposal, its visual impact within the streetscene, undeveloped coast and AONB, drainage, ecology, parking and turning, and any impact upon the amenity of neighbouring properties

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### **Site Description:**

'Skerries' is a detached dwelling located within South Milton Parish. The site is within designated countryside, outside of any recognised settlement, but forms part a row of anomalous detached dwellings within the area around Thurlestone Beach and South Milton Ley. Access is from the main highway which runs directly to the north of the site. Agricultural land is to the south, which drops down to South Milton Ley which is a SSSI. The residential curtilage of two dwellings 'The Ley House' and 'Hopeside' is to the east and west respectively.

The site slopes down from north to south. The existing building is in a tired and dilapidated condition and is a large dormer bungalow with associated balconies and an integral garage. The large box dormers appear to be later, unsympathetic additions to the original building. The dwelling is finished in render and slate with plastic windows and rainwater goods.

The site is within the AONB and Undeveloped Coast and is visible from areas around the highway and the South West Coastal Path, particularly around Thurlestone Beach and South Milton Ley. The Coastal Path crosses the ley over a wooden footbridge to the south of the application site.

The Parish of South Milton has an emerging Neighbourhood Plan which has been submitted for examination. Its policies are a material consideration during assessment of this scheme.

### **The Proposal:**

Planning permission is sought for a replacement dwelling. The new dwelling is a five bedroom two storey dwelling with a main pitched zinc roof and a series of smaller flat roofs, with walls finished in render with aluminium windows and doors. There are also elements of natural stone walling incorporated into the scheme.

The new building is approximately within the same location of the existing building but its main building line is set back from that of the existing dwelling. However a single storey garage protrudes further forward toward the highway.

## **Consultations:**

- County Highways Authority

No objection

- South Milton Parish Council

Objection – Due to conflict with Neighbourhood Plan with specific regard to the design and materials, and subsequent impact upon street scene, skyline, undeveloped coast and AONB and cause obstruction to an important fly-way towards South Milton Ley SSSI.

## **Representations:**

Approximately 64 letters of representation have been received at the time of writing this report, 14 letters in support of the scheme and approximately 50 objecting. Comments made in support of the scheme are summarised as follows:

- The dwelling will be more environmentally friendly
- The proposed dwelling will be an improvement on the existing, adding diversity
- The design is well considered
- The existing dwellings are of a mixture of styles
- There are other similar designs, such as Sand Bank, in the locality
- There will be minimal impacts on the highway or neighbours
- The building maintains the height and scale of neighbouring properties

Comments made objecting to the scheme are summarised as follows:

- The design and scale of the dwelling is not in-keeping with the area
- Specifically, the roof does not conform to neighbouring properties
- Will be harmful to the landscape and AONB
- Will be harmful from the Coastal Path
- Will cause light pollution
- The scheme is in conflict with the replacement dwelling policy
- Could set a precedent
- The landscaping is not an effective way to assimilate the development
- Will negatively impact upon amenity of neighbouring properties
- Conflicts with emerging Neighbourhood Plan
- There are errors within the submitted plans

## **Relevant Planning History**

47/1362/15/F - Demolition of existing house to rebuild new dwelling - Withdrawn

## **Analysis**

### Principle of Development/Sustainability:

The principle of replacement dwellings within the countryside is accepted by policy DP17, subject to its various requirements. This policy states that:

*‘Proposals to replace a dwelling in the countryside will be permitted provided:*

*a. the existing dwelling has a lawful use, has not been abandoned, and is not a caravan, mobile home or other temporary structure;*

- b. the size of the new replacement dwelling shall not be significantly larger than the original house volume;*
- c. the number of new dwellings is no more than the number of dwellings to be demolished and replaced;*
- and*
- d. any new replacement dwellings should be positioned on the footprint of the existing dwelling, unless on design, landscape, highway safety, residential amenity, or other environmental grounds a more appropriate location can be agreed.'*

Officers consider the proposed replacement dwelling to be significantly larger than the existing dwelling, leading to conflict with policy DP17. However, officers are also mindful that the existing dwelling itself is smaller than its neighbours, and thus represents an anomaly within the streetscene. For instance, the two adjoining properties, The Ley House and Hopeside, are both very large buildings. As such, a bigger dwelling would actually offer more conformance to the prevailing massing of buildings within the area,

Therefore, officers consider that there are site specific reasons which overcome this policy conflict, and lead officers to conclude that a significantly larger dwelling can be supported in principle, subject to the detailed scale, design, massing and visual impact.

#### Design/Landscape:

This is sensitive location within the AONB which benefits from a high level of scenic beauty. However, the area is also characterised by a series of large dwellings, including the very large Links House apartment building. The existing building within the application site, due to its tired state, spate of unsympathetic alterations and comparatively diminutive size, is considered to present a negative contribution to the area.

With regard to the scale of the proposal, the scheme conforms to the general heights and massing of dwellings within the area. Indeed, the proposed dwelling approximately maintains the ridge heights of the two neighbours on either side, and both The Ley House and Hopeside are very large buildings. The appearance upon the skyline conforms to the various other properties along the row.

Therefore, although the building will be bigger and higher than the existing dwelling, this increase in massing will be seen within the immediate context of the number of large dwellings within this location, and therefore will not be harmful to the character of the streetscene, undeveloped coast or South Devon AONB.

In terms of design, the scheme introduces components of modernist architecture into an area where there is a lack of clear uniformity or similarity in the existing architecture across the streetscene, with an assortment of styles, finishes and materials visible.

However, within this assortment of styles is another existing property, 'Sandbank', which is by the same architect and has a similar style to that proposed here. Importantly, when the application site is viewed from the south from the sensitive areas around the Ley and Coastal Path, it is seen with the existing modern style property directly within the foreground. As such, it cannot be argued that the scheme will introduce an alien style into the streetscene when viewed from these areas, as it will be seen in direct combination with the similarly designed dwelling Sandbank.

The main common factors of dwellings along the Links Road are that they are large and detached under pitched roofs with a tangible building line. This scheme approximately maintains the building line, massing and height of its neighbours, and features a pitched zinc roof as its main roof feature. Although officers acknowledge the presence of flat roof elements, notably to the principal elevation, these elements are not considered to lead to a design response which is inappropriate or fails to respond to the limited local distinctness across the Links Road streetscene. Officers have had particular regard to paragraph 60 of the Framework in reaching this conclusion, which states that:



*'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.'*

Through its height, location, massing and orientation the building adheres to what is distinctive across the Links Road streetscene, and in the absence of any other tangible uniform architectural style, an objection to the modernist elements of the design is considered to amount to an unsubstantiated and unnecessary imposition of architectural styles and tastes to the detriment of innovation. Officers consider the proposed building to be a positive addition to the streetscene which will provide a greater degree of interest and innovation and raise the general standard of design, without introducing an unsubtle or incongruous impact within its sensitive context.

#### Neighbour Amenity:

With regard to Hopeside, there is an existing first floor balcony providing overlooking at a distance exceeding 20m toward this property. Overlooking from the first floor areas of the proposed dwelling is not considered to be above and beyond that currently experienced. In terms of The Ley House, there will be a small increase in dominance and loss of light towards this property. However, this is limited, and when viewed in the context of the large scale of The Ley House and its generous curtilage, the neighbour impact is considered to be acceptable.

Officers note the comments made regarding the 'upside down' design of layout of the house, with living accommodation at first floor level and bedrooms below. However, the overlooking from these first floor areas is not considered to be significantly harmful in comparison to existing relationships between properties across Links Road. The proposal is therefore considered to conform to the requirements of policy DP3.

In any case, the internal reconfiguration of an unlisted building is not development, and other properties could introduce first floor living accommodation at any time, without the need for planning consent.

#### Highways/Access:

The scheme reuses the existing vehicular access and provides both turning and acceptable levels of parking.

#### Ecology and Drainage

The ecological work undertaken by the applicant indicates that no protected species will be harmed through redevelopment of the site. The Council has no evidence that the land to the side of the existing dwelling provides a specific access to wildlife accessing the Ley.

Foul water is to be connected to the main sewer system and the use of soakaways for surface water is acceptable in principle, subject to a condition requiring percolation testing and a detailed drainage strategy.

#### The Neighbourhood Plan

Officers note the comments made with regard to the conflict with the emerging Neighbourhood Plan, particularly General Housing Policy H4. As this plan is emerging, the weight it can be attributed is limited at this time. However, the general issues raised regarding design, local distinctiveness and the natural landscape are captured within other Development Plan policies and the Framework, and this recommendation is made with total regard to the concerns raised by the Parish Council.

In any case, policy H4 is a housing policy, but it is not clear if this is a policy that should be used to assess a scheme for a replacement dwelling; there is no additional housing provision as a result of this

application. In addition, the emerging NP policy requires housing development to enhance the AONB, and it is unclear how replacement dwelling applications can always provide a tangible enhancement to the AONB. Overall, the emergent status of the policy, coupled with the ambiguity of the policy with specific regard to this application, leads officers to attribute only limited weight to the NP within the planning balance.

### Conclusion

Officers acknowledge that, by reason of the massing and scale of the proposal, the scheme is significantly larger than the existing dwelling and thus in conflict with that requirement of policy DP17. However, the diminutive scale of the existing dormer bungalow, in direct comparison to its larger neighbours, is a material consideration which is attributed significant weight and which overcomes this conflict with that specific policy of the Development Plan. As such, the principle of a larger replacement dwelling on this specific site is accepted by officers.

The existing building is a notably smaller and tired building which has experienced unsympathetic extensions and alterations, leading it to have a negative contribution to the streetscene.

By contrast, the proposal is considered to offer more conformance to the streetscene with regard to scale and massing, also provides an interesting and innovative interpretation of modernist design principles, and overall provides a positive contribution to the streetscene. It will do so without prejudicing the character and appearance of the AONB and undeveloped coast upon which its impact is neutral. The design of the scheme ensures that there will not be significant harm to the amenity of neighbouring properties. The scheme is therefore recommended for approval subject to appropriate conditions.

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

### **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

#### **South Hams LDF Core Strategy**

CS7 Design  
CS9 Landscape and Historic Environment

#### **Development Policies DPD**

DP1 High Quality Design  
DP2 Landscape Character  
DP3 Residential Amenity  
DP5 Conservation and Wildlife  
DP7 Transport, Access & Parking  
DP17 Residential Extensions and Replacement Dwellings in the Countryside

#### **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). -
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

### **PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

SPT1 Delivering sustainable development  
SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
TTV32 Residential extensions and replacement dwellings in the countryside  
DEV1 Protecting amenity and the environment  
DEV10 Delivering high quality housing  
DEV24 Landscape character  
DEV25 Undeveloped coast  
DEV27 Nationally protected landscapes  
DEV28 Protecting and enhancing biodiversity and geological conservation  
DEV30 Trees, woodlands and hedgerows

### **Emerging South Milton Neighbourhood Plan**

H4 General Housing Policy

### **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.

### **Conditions**

1. The development to which this permission relates must be begun not later than the expiration of eighteen months beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. Except for any details required by any of the conditions attached to this permission, the development hereby approved shall accord with the detailed drawings and other submitted documentation hereby approved.

Reason: To ensure that the proposed development is carried out in accordance with the detailed drawings and other documentation forming part of this application to which this approval relates.

3. Prior to installation, a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, shall have been submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed

in writing with the Local Planning Authority.

Reason: To enable the Local Planning Authority to consider the details of the materials.

4. Prior to installation, constructional details at a scale of 1:20 of all eaves and verges shall be submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development displays good design practice.

5. Prior to installation, a full roofing specification including sections, indicating the finish, and specification of the roofs, including the flat roofs, shall be submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development displays good design practice.

6. Prior to installation, full details of all new windows and external doors shall have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross sections, profiles, reveal, surrounds, materials, finish and colour in respect of new windows, doors and other glazed panels. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area

7. Prior to application, details of the proposed render type and colour(s) shall be agreed in writing with the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the finishes and colours are appropriate to the locality.

8. The stonework shall be constructed of natural stone which matches the colour and texture of that occurring locally, a sample of which shall be submitted to and agreed in writing by the Local Planning Authority, prior to installation. The new stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used in the wall or for quoin stones. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development displays good design practice.

9. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the site and details of any to be retained, together with measures for their protection in the course of development.

All planting, seeding, turfing or hardsurfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of the buildings or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.

Reason: To ensure the provision of an appropriate landscaping scheme in the interests of the visual amenities of the locality and to assimilate the development into its surroundings.

10. Notwithstanding the submitted details, the development hereby permitted shall not be commenced until full details of drainage scheme for the surface water have been submitted to and approved in writing by the LPA. The drainage scheme should follow the drainage hierarchy with soakaways as the first choice. Only if soakaways are not feasible will an alternative scheme be considered. Percolation testing in accordance with DG 365 will be required to support the use of soakaways, or justify an alternative option. The report should include the trial logs and calculate the infiltration rate. Soakaways to be designed for a 1:100 year event plus an allowance for climate change. (Currently 40%)

The surface water should be attenuated for a 1:100 year event plus 40% for climate change. The discharge must be limited to the green field run off rate. If discharging to the sewer written permission from SWW will be required. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development.

11. The garage hereby permitted shall remain available in perpetuity for the parking of motor vehicles in association with the use of the dwelling.

Reason: To ensure that the off-street parking facilities remain available in the interests of highway safety.

12. Notwithstanding the details set out on the submitted drawings, the development hereby permitted shall be carried out in accordance with the comments and recommendation set out in the Bat Survey.

Reason: To safeguard the welfare of a protected species of wildlife, in the interests of the amenity of the area and the Conservation (Natural Habitats) Regulations 1994 and the 1981 Wildlife and Country Act (as amended)

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## PLANNING APPLICATION REPORT

**Case Officer:** Wendy Ormsby

**Parish:** Diptford **Ward:** South Brent

**Application No:** 2267/17/VAR

**Agent/Applicant:**

Mr Barry James  
6 Lee Park  
West Buckland  
Wellington  
TA21 9PX

**Applicant:**

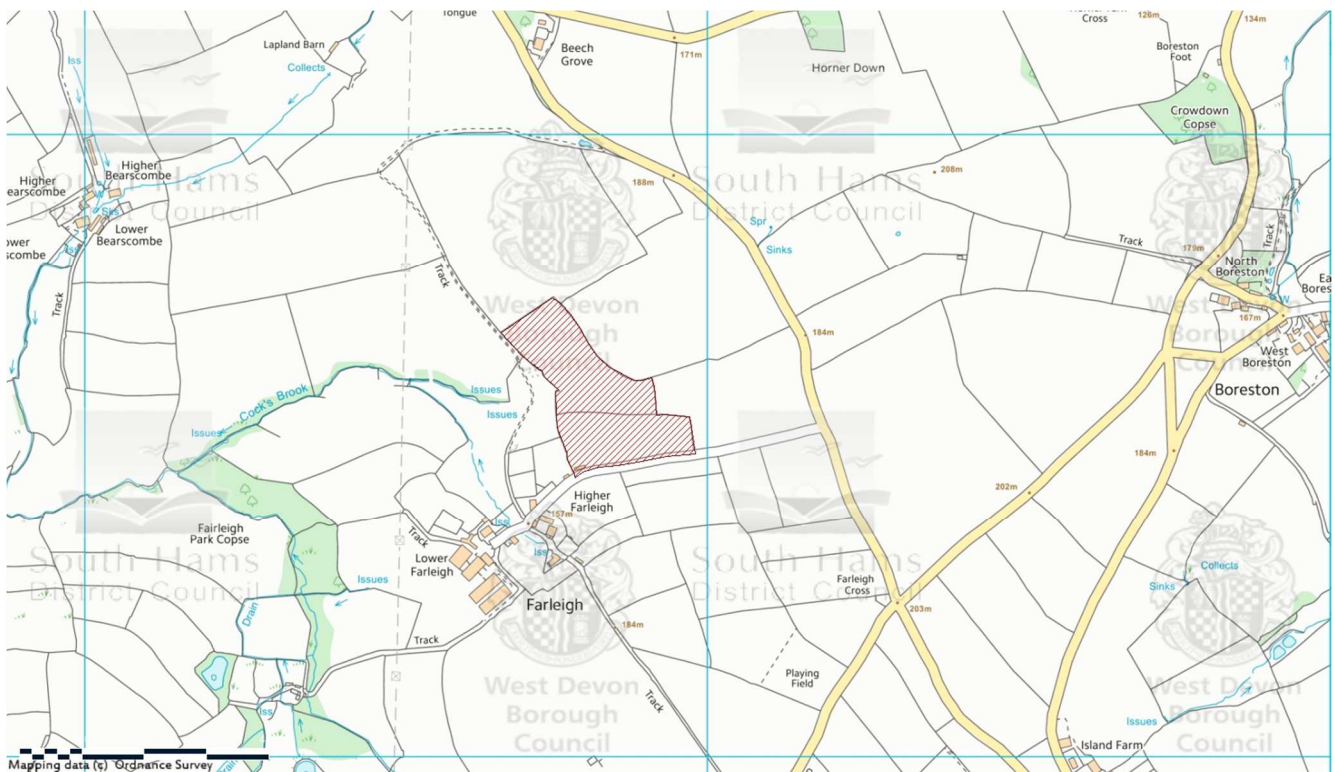
Ms C Furini  
294 Dean Cross Road  
Plymstock  
Plymouth  
PL9 7AZ

**Site Address:** Farleigh Meadows, Totnes, TQ9 7JW

**Development:** Variation of condition 3 of planning consent 17/1854/11/F to allow stables to be used for an equine business

**Reason item is being put before Committee:** At the request of Ward Members for the following reasons:

- The applicant's business case, which is key to supporting this application, is considered to be flawed
- Highways have underestimated the potential amount of traffic to the site, for example vet visits, the applicant's assertion that all sales will be dealt with online is unrealistic.
- Is there sufficient land available to support the numbers of horses planned.



**Recommendation:** Conditional approval subject to Section 106 Undertaking such that:

- No customers of the horse breeding business shall visit the site
- CCTV shall record the comings and goings of all vehicles to the site
- A log of the name, address and purpose of visit of the drivers of all vehicles entering the site shall be kept by the applicant and shall be made available to the LPA on request.

### **Conditions**

Development to be carried out in accordance with approved drawings

Use restricted to breeding of horses

No floodlighting or other external lighting

Retention of hedged to south and west of stables, maintained at a height of 4m to 5m

Drainage

Manure/dung heaps not to cause pollution

Comprehensive scheme of management for ancillary structures to accord with details previously agreed

Business use allowed for 3 year period only

### **Key Issues for consideration:**

The application seeks to remove a planning condition imposed upon the previous planning permission for the erection of a barn to be used as stables. The condition subject of the application restricts the use of the stables so that they cannot be used for business or commercial use. The reason for the imposition of the condition is to restrict the character and volume of traffic attracted to the site. The key considerations are therefore whether the condition complies with the relevant tests for planning conditions as set out in the NPPG and whether the use of the stables for business purposes would result in an unacceptable increase in traffic to and from the site.

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### **Site Description:**

The site is situated to north west of the village of Moreleigh on agricultural land to the north east of Farleigh Farm. The land currently has a stable building as approved under application 17/1854/11/F, measuring 27m in length by 9m wide and to ridge 4.5m sloping to 4m. This comprises of 10 internal stables and barn for the storage of feed, hay and tack. The building is constructed with timber ship lap boarding for the walls and green corrugated sheeting forming the roof.

It also benefits from a sand school that was approved under planning application 17/0507/13/F that is located to the south of the site and adjacent to access road and parking area.

### **The Proposal:**

The proposal is for the removal of condition 3 of planning approval 17/1853/11/F to allow business/commercial use of the stables for the breeding of horses. The applicant has stated that sales would be via the internet and that no customers would visit the site. The applicant suggest this could be controlled by planning condition or through a Section 106 Obligation. The application is supported by a Unilateral Undertaking.

### **Consultations:**



- County Highways Authority                      No objection subject to a legal agreement/planning condition to prevent customers from visiting the site
- Parish Council    Objection

*'Unsuitable location on steep slope with no basic services to support a breeding business, such as electricity or water; Increased traffic along narrow lanes for visiting vets, farriers, feed deliveries etc; Unenforceable agreement with DCC Highways that customers would not visit the site; One of a series of applications with the aim of enabling the applicant to live on the site.'*

- Agricultural advisor                                      no objection

### **Representations:**

2 letters, one of which contains 12 signatures, have been submitted raising objections to the application for reason which include the following:

Unsuitable land, location and acreage for proposed use.  
 Increased traffic will adversely impact on highway safety  
 Traffic movements are underestimated – eg vets and farriers  
 Potential for contamination from manure  
 No mains water  
 No electricity  
 Unenforceable legal agreement  
 Question viability of the business

### **Relevant Planning History**

2012/17/FUL: Use of land for siting a timber chalet as accommodation for a key worker in support of an equine breeding business for an initial period of 3 years. Current

0355/17/FUL: Use of land for siting a timber chalet for key worker accommodation in support of equine breeding business – Withdrawn

0354/17/VAR: Variation of condition 4 of 17/0507/13/F to allow business use of sand school. Withdrawn

0353/17/VAR: Removal of condition 6 of planning permission 17/1854/11/F to allow barn to be used for equine business. Withdrawn

17/1334/14/F – Installation of key workers chalet for equestrian business – Refused

17/1332/14/F – Variation of condition 3 of approval 17/1854/11/F to allow business use of the stables – Refused

17/0420/14/F – Temporary retention of mobile home for equestrian purposes and installation of timber chalet for key worker - Withdrawn

17/0507/13/F – Resubmission of 17/2889/12/F erection of sand

School for private use - Conditional approval

17/2889/12/F — Erection of a Sand School at SX 7579.5346- Withdrawn

17/1854/11/F– Demolition of existing barns and erection of replacement barn for use as stables – Conditional Approval

17/0176/06/F – Barn and field shelters for storage and shelter for sheep/horses – conditional approval

17/1497/05/F – Erection of two field shelters for horses – conditional approval

## **ANALYSIS**

### **Principle of Development/Sustainability:**

This application seeks the variation of a planning condition 3 of planning consent 17/1854/11/F which states that

*The stables hereby permitted shall not be used for business or commercial uses.*

*Reason: To restrict the character and volume of traffic attracted to the site.*

Advice to Local Planning Authorities on the imposition of planning conditions is set out with the National Planning Practice Guidance (NPPG) and within the National Planning Policy Framework (NPPF) in particular the NPPG gives advice on the application of the six tests in paragraph 216 of the NPPF. It sets out that all conditions imposed on planning permissions must satisfy all of the six tests. The six tests are as set out below:

1. **Necessary:** A condition must only be imposed if it is needed to make the development acceptable in planning terms. If the condition is wider in scope than is necessary to achieve the desired objective it will fail this test.
2. **Relevant to planning:** A condition must not be used to control matters that are the subject of other legislation.
3. **Relevant to the development to be permitted:** It is not sufficient that a condition is related to planning objectives; it must also be justified by the nature or impact of the development. A condition cannot be imposed to remedy a pre-existing problem or issue not created by the proposed development.
4. **Enforceable:** Unenforceable conditions include those for which it would, in practice, be impossible to detect a breach of the condition or are concerned with matters over which the applicant has no control.
5. **Precise:** The condition must be written in a way that makes it clear what is required and within what timescale.
6. **Reasonable in all other aspects:** Conditions which place unjustifiable and disproportionate burdens on an applicant will fail this test.

It is considered that Condition 3, which is the subject of this application, does clearly satisfy the tests as set out above, it is clear and precise, it was imposed to ensure that the development

would not harm the character of the area or adversely impact on highway safety by increasing traffic volumes and is relevant and reasonable.

It is relevant therefore to continue to consider the merits of the proposed variation to this condition.

The principle of supporting the rural economy is supported by local and national planning policy

Policy CS13 states, inter alia that:

- 1. Development to enable diversification of the rural economy is acceptable where it is compatible with its location and setting and will cause no unacceptable harm to the surrounding landscape or historic and cultural heritage.*
- 2. Development must re-use or adapt existing buildings where possible. If this is not possible, any new replacement buildings must be well related to existing buildings, of an acceptable scale and blend satisfactorily into the landscape...*

Policy DP18 states that:

*Horse related development should only be permitted where:*

- a. there is adequate land and, for commercial uses, adequate off-road riding facilities available for the number of horses to be kept on the land;*
- b. existing buildings are reused where possible but where new buildings are necessary, these are well-related to existing buildings, commensurate in size with the number of horses to be kept on the land and the amount of land available for use by those horses;*
- c. there is an agreed comprehensive scheme of management for any ancillary development including hardstanding, access roads, parking, fencing, lighting, storage, waste disposal, ménages and sub division of fields; and*
- d. the proposal, either on its own or cumulatively, with other horse related uses in the area, is compatible with its surroundings and adequately protects water courses, groundwater and the safety of all road users.*

Policy DP18 is carried forward into the emerging JLP as part of policy TTV31

Para 28 of the NPPF states, inter alia that

*Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:*

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*
- promote the development and diversification of agricultural and other land-based rural businesses;*

The principle of facilitating a business use of this rural building is therefore in accordance with local and national planning policy subject to all other material planning considerations.

Previous applications (17/1332/14/VAR and 17/1333/14/VAR) to allow a variation to conditions to allow the business use of the site for livery has been refused and dismissed at appeal on grounds of highway safety. This remains the key issue in the consideration of the current application.

### **Highways/Access:**

In considering the appeals mentioned above the Inspector noted that the site access joins the public highway on an unclassified road, visibility of oncoming traffic at the junction is very limited and should the proposed business use of the stables intensify use of the site access onto the unclassified road highway safety would be adversely affected.

The unclassified road then joins the wider highway network at a T junction with the C43 road. The Inspector also found visibility to be restricted at this junction.

The Inspector found that there would be no control of the type of livery offered or the intensity of business use of the stables and sand school, as a consequence vehicle movements could considerably increase. A Unilateral Undertaking had been suggested by the appellant to provide controls however none was submitted to the Inspector at the time who proceeded to determine the appeal based on the evidence available.

The Inspector concluded that a business use of the stables would allow traffic levels to increase beyond the current safe point and dismissed the appeal on the grounds that it would demonstrably harm highway safety.

The site currently accommodates a stable block with 10 stables, there is a sand school and paddocks. The owner currently has 8 mares and a stallion on site. The owner lives off site and travels daily to the site to tend to the horses. There are associated visits from vets, farriers and feed/hay deliveries.

The business proposal is now for the breeding of horses, it is stated that sales would be online and customers would not be permitted to visit the site with the only associated movements being the occasional delivery of a foal. As mares will have no more than one foal per year this level of additional movement would be limited. This application is linked to a further application for a rural workers dwelling on the site (a log cabin), proposed initially for 3 years as the business establishes. The applicant argues that living on site will reduce the amount of vehicle movements to the site from her and that overall even with the possibility of some increased visits from the vet there will be no net increase in visits. A Transport Statement is submitted in support of the application. The applicant also points out that there is nothing to prevent the horses breeding at the site as part of the current private use.

The Highway Authority have raised no objection to the application subject to a Section 106 legal agreement to prevent customers from visiting the site and a condition to the same effect.

Noting that the Highway Authority do not object to this business use proposal subject to the 106 agreement and condition it is relevant to consider if these controls would meet the necessary tests and be enforceable.

It would not be necessary or appropriate to have a Section 106 Obligation and a planning condition that seek to enforce the same controls, one or the other should be applied. In this case the applicant has submitted a Unilateral Undertaking.

The NPPF sets out that:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development.

It is considered that the terms of the Obligation as submitted meet these tests, however also relevant is to consider is whether or not the terms are enforceable. How would the authority know if customers have been visiting the site, rather than, for example, friends making a social visit? This matter has been raised with the applicant who has suggested a further undertaking to install CCTV to record comings and goings from the site, the applicant would record the details of visitors relevant to vehicle registration numbers and the CCTV records and vehicle records would be available for inspection by the LPA upon request.

Officers consider that this approach could be successful and should not be to be unduly onerous. Nevertheless there remains an element of uncertainty as to the traffic levels that will arise and how they are uncontrolled. As such it is proposed that if the condition is varied to allow business use for the breeding of horses it is granted for a temporary 3 year period; this will tie in with the temporary consent sought for the linked application for a rural workers dwelling on the site and will allow the nature and impacts of the business to be assessed and reviewed.

### **Design/Landscape:**

The proposed variation of the condition to allow business use for breeding will have no visual impact on the site

### **Neighbour Amenity:**

The proposed business use for the breeding of horse will have no material impact on neighbouring properties subject to there being no material increase in traffic movements to the site

### **Other Matters:**

Objections have been raised on the grounds that the site is not suitable for the breeding of horses as the site does not have running water or electricity and there is insufficient land. The site already allows for 10 horses to be stabled and the applicant already keeps 9 horses at the site; there is nothing to suggest that the horses are not properly cared for on the site due to lack of infrastructure. The Agricultural consultant has raised no objection to the proposed use.

Objections also question the viability of the business and the enforceability of the legal obligation. The three year temporary consent will allow for these matters to be fully tested.

## **The Planning Balance**

The principle of the establishment of rural businesses in existing buildings is supported by local and national planning policy.

The key concern with regard to the proposed business use of Farleigh Meadows relates to ensuring that there will be safe and suitable access for all users of the highway. A use that would materially increase traffic movements to and from the site would not be acceptable due to inadequate visibility at junctions.

Measures to control traffic movements have been put forward which appear likely to be satisfactory, however it is appropriate to allow the variation of this condition on a 3 year temporary basis only to allow the impact to be fully assessed.

On this basis the proposed variation of condition is considered to be acceptable.

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

## **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

### ***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  
DP7 Transport, Access & Parking  
DP15 Development in the Countryside  
DP16 Conversion and Reuse of Existing Buildings in the Countryside  
DP18 Horse related uses and structures

## **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

### **PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV15 Supporting the rural economy

DEV24 Landscape character

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV30 Trees, woodlands and hedgerows

DEV31 Specific provisions relating to transport

#### **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.

#### **Proposed conditions in full**

1. The development hereby approved shall in all respects accord strictly with drawing numbers SHLP, SHDC 1 to 3, PC/LPA/393-01, Landscape and Visual Impact Assessment dated July 2011 and Design and Access Statement received by the Local Planning Authority on 20th July 2011 and submitted in support of planning application 17/1854/11/F.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

2. There shall be no floodlighting or other external lighting at the site.

Reason: To safeguard the appearance and character of the area.

3. If any trees or plant is removed, felled, uprooted, destroyed or dies which forms part of the native hedge and trees as shown on drawing PC/LPA/393 - 01 submitted as part of planning application 17/1854/11/F, another tree or plant shall be planted at the same place and that tree(s)/ plant (s) shall be of such a size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

Reason: In the interests of public amenity and local landscape character.

4. The hedges to south and west of the stables at the site shall be maintained at a height of 4m to 5m.

Reason: In the interests of public amenity and local landscape character

5. The site shall be drained on a separate system with all clean roof and surface water being kept separate from foul drainage. All foul drainage, including foul surface water run-off, shall be disposed of in such a way as to prevent any discharge to any well, spring or watercourse including dry ditches with connection to a watercourse.

Reason: In the interests of the prevention of pollution.

6. Manure/dung heaps should be sited in an area where it/they will not cause pollution of any watercourse or water source by the release of contaminated run-off.

Reason: To prevent pollution of the water environment.

7. The application site shall be used for the keeping of horses/ponies for the private enjoyment of the land owner only and for no business or commercial use except for the commercial breeding of horses.

Reason: To restrict the character and volume of traffic attracted to the site.

8. The Comprehensive Scheme of Management for any ancillary development within the site, submitted and approved pursuant to condition 9 of planning permission 17/1854/11/F by the Local Planning Authority, which included details of proposed hardstandings, access roads, parking, fencing, lighting, storage, waste disposal, ménages and sub division of fields shall be strictly adhered to and maintained.

Reason: In the interests of public amenity and local landscape character.

9. The business use hereby approved shall cease within 3 years of the date of this decision.

Reason: To allow the impacts of the commercial use to be fully assessed and understood, in the interests of highway safety and the amenity of the area.



## PLANNING APPLICATION REPORT

**Case Officer:** Wendy Ormsby

**Parish:** Diptford **Ward:** South Brent

**Application No:** 2012/17/FUL

**Agent/Applicant:**

Barry James  
6 Lee Park  
West Buckland  
Wellington  
TA21 9PX

**Applicant:**

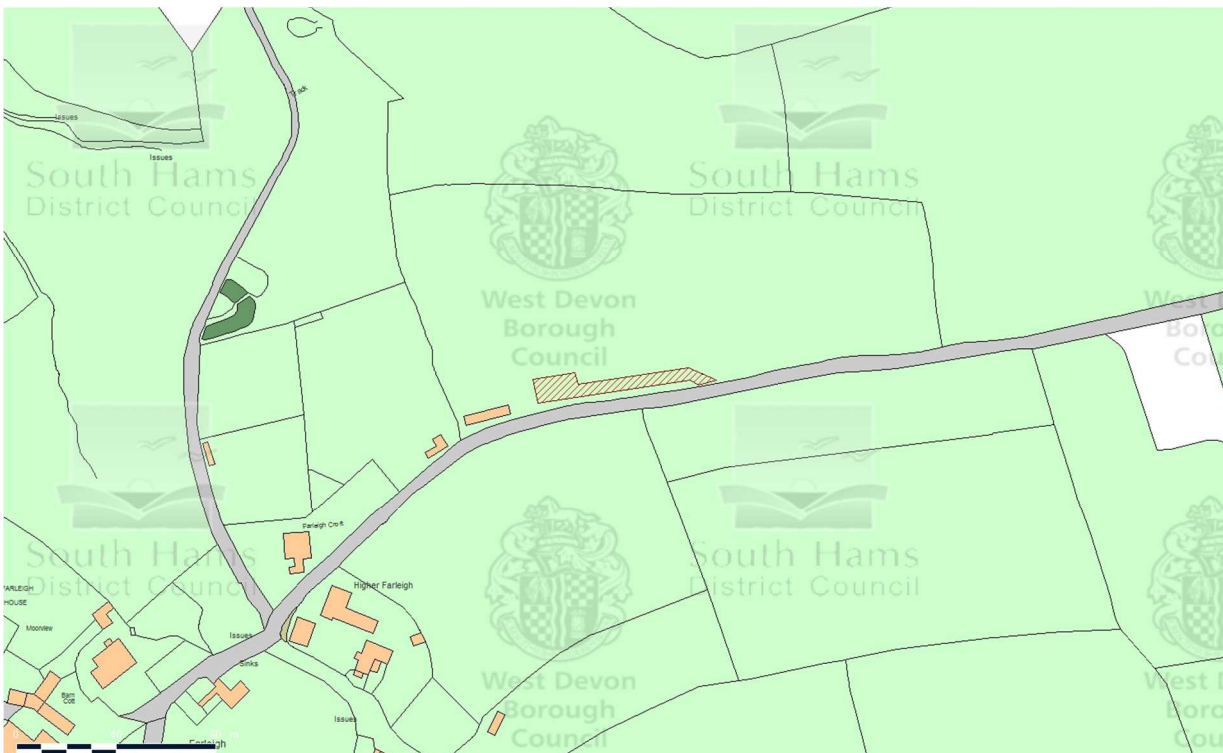
Ms C Furini  
294 Dean Cross Road  
Plymstock  
Plymouth  
PL9 7AZ

**Site Address:** Farleigh Meadows, Totnes, TQ9 7JW

**Development:** Use of land for siting a timber chalet as accommodation for a key worker in support of an equine breeding business for an initial period of 3 years (Re-submission of withdrawn application 0355/17/FUL)

**Reason item is being put before Committee:** At the request of the Ward Members for the following reasons:

- The applicant's business case, which is key to supporting this application, is considered to be flawed
- Highways have underestimated the potential amount of traffic to the site, for example vet visits, the applicant's assertion that all sales will be dealt with online is unrealistic.
- Is there sufficient land available to support the numbers of horses planned.



**Recommendation: Conditional Approval** – This recommendation is valid only if application ref 2267/17/VAR to allow commercial use is approved, if not there would be no justification for the temporary rural workers dwelling and the recommendation would change to Refusal.

### Conditions

Standard three year time limit for commencement of development  
Development to be carried out in accordance with approved drawings  
Use restricted to a full time worker employed on site  
Consent restricted to three years  
Materials

---

### Site Description:

The site is situated to north west of the village of Moreleigh on agricultural land to the north east of Farleigh Farm. The land currently has a stable building as approved under application 17/1854/11/F, measuring 27m in length by 9m wide and to ridge 4.5m sloping to 4m. This comprises of 10 internal stables and barn for the storage of feed, hay and tack.

It is constructed with timber ship lap boarding for the walls and green corrugated roofing. It also benefits from a sand school that was approved under planning application 17/0507/13/F that is located to the south of the site and adjacent to access road and parking area.

### The Proposal:

The proposal is for the erection of a key workers chalet building on the southern boundary of the site adjacent to the existing stables. The chalet will measures 13.5m in width by 9m in depth, 2.2m to the eaves and 4m to the ridge. It will be constructed in timber with timber windows and doors. The chalet will be constructed in 'Ultra Dark Oak' timber cladding and timber windows and doors with bitumen shingles for the roof. The existing hedge adjacent to the Lane is proposed to be kept to existing height to provide screening of the building.

The chalet will be connected to mains water by a connection of the south of the site in neighbouring field and water pipe will be moled under the highway in an appropriate manner to access the site. In addition rain water butts will be placed at the existing stables building and chalet roofs to collect surface water. A septic tank will be placed to the north east of the chalet adjacent to the sand school. This will then drain into neighbouring field.

### Consultations:

- County Highways Authority                      No objection
- Environmental Health Section                      No comments
- Parish Council    Objection

*'unsustainable location on steep slope with no basic services to support a breeding business, such as electricity or water; Increased traffic along narrow lanes for*

*visiting vets, farriers, feed deliveries etc; unenforceable agreement with DCC Highways that customers would not visit the site; One of a series of applications with the aim of enabling the applicant to live on site.'*

- Agricultural consultant      No objection on the basis that a breeding business would be established and subject to the placement of a temporary three year permission.

### **Representations:**

Objections have been received, raising the following issues: -

- Land considered unsuitable for breeding business.
- Additional traffic considered unacceptable.
- Lack of information regarding potential land contamination from proposed dung heap.
- No mains water or electricity on site.
- Do not consider highways officers have fully considered the issues within their response.
- Previous applications on the site have been refused, concern little has changed with this one.
- Number of horses on the site already exceeds recommended number.
- Applicant has underestimated the number of vet visits required.

Supporting letters has been received from the applicants Veterinary Surgeon who states:-

- Confirms he has been visiting the site since January 2017
- Of the view that if the animals are to be used as part of a breeding business someone should be on site during the foaling period to maintain health and welfare of mares and foals.
- Advantageous for someone to be on site during the rest of the year to monitor the animals, and be available in-case a veterinary emergency should occur.

### **Relevant Planning History**

2267/17/VAR – Linked application (recommended approval) - Variation of condition 3 of planning consent 17/1854/11/F to allow stables to be used for equine business

0355/17/FUL – Withdrawn – temporary 3 year consent for siting of workers dwelling

0354/17/FUL – Withdrawn – Variation of condition 4 to allow business use of the sand school

0353/17/FUL – Withdrawn – Removal of condition 6 to allow barn to be used for equine business

17/1332/14/F – Refused dismissed on appeal - (Variation of condition 3 of approval

17/1854/11/F to allow business use of the stables)

17/1333/14/F – Refused, dismissed on appeal - (Variation of condition 4 of approval

17/0507/13/F to allow business use of the stables)

17/0420/14/F – Withdrawn – Temporary retention of mobile home for equestrian purposes and installation of timber chalet for key worker

17/0507/13/F – Conditional Approval – Resubmission of 17/2889/12/F erection of sand School for private use

17/2889/12/F – Withdrawn – Erection of a Sand School at SX 7579.5346 17/1854/11/F –

Conditional Approval – Demolition of existing barns and erection of replacement barn for use as stables

17/0176/06/F – Conditional Approval – Barn and field shelters for storage and shelter for sheep/horses

17/1497/05/F – Conditional Approval – Erection of two field shelters for horses

### **ANALYSIS**

## **Principle of Development/Sustainability:**

The National Planning Policy Framework makes it clear that 'Local Planning Authorities should avoid new homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work', the reuse of an existing building or the exceptional quality or innovative design of the dwelling being proposed. This guidance is mirrored within policy DP15 of the Council's DPD and emerging JLP Policy TTV31 which supports dwellings in the countryside where they support the essential needs of agriculture and forestry.

Previous applications on the site for a temporary agricultural workers dwelling have been withdrawn or refused, and subsequently dismissed at appeal. This was on the basis that proposals for a business use of the site were not supported by the LPA and therefore there was no primary justification for a proposed dwelling on site.

However, officers have recommended approval for the use of the site as a breeding business, as detailed within application reference 2267/17/VAR. It is against this proposal that the current application is assessed.

To support their submission the applicants have submitted a comprehensive Design and Access Statement with agricultural justification. The Council's Agricultural Consultant has reviewed the information and met with the applicant together with his agent. He has provided a comprehensive report which can be summarised as follows: -

Background to the application: -

- Applicant acquired the site around 14 years ago and it presently comprises around 10 acres of pasture in various enclosures/paddocks together with a building accommodating 10 stables and adjoining general purpose building.
- Applicant has acquired ten Friesian horses from the Netherlands which comprises 9 mares and 1 stallion
- Proposed business plan concerns the breeding of Friesian horses with mares producing foals which are reared to 6 months of age before they are sold.
- Applicant currently lives in Plymouth.

1. Clear evidence of a firm intention and ability to develop the enterprise concerned.

The Council's agricultural consultant confirms that the applicant has acquired the breeding stock necessary to set up the business. He goes on to say that he is satisfied the applicant has composed a detailed business plan for the proposed 'equine breeding operation' and is therefore satisfied that the applicant has demonstrated a clear intention and ability to develop the enterprise.

2. Functional need.

Having looked at the husbandry requirements of the proposed business and the number of horses involved, the Agricultural Consultant notes that he is satisfied there is a functional need for a key worker to be on site at most times.

3. Clear evidence the site has been planned on a sound financial basis.

The Council's agricultural advisor has reviewed the financial appraisal for the first three years. He states it is clear that the breed of horses being managed by the

business are inherently valuable, and as a result of those values is satisfied that the proposed business has been planned on a sound financial basis.

4. Alternative accommodation within the area which might be suitable and is available.

The Council's agricultural consultant has confirmed that he is satisfied there is no existing accommodation within the area which is either suitable or available.

On the basis of the evidence submitted, the Council's agricultural consultant is therefore satisfied that a case has been made for a 3 year consent for a temporary dwelling at Farleigh Meadows. However, having regard to the planning history, he is clear that this is only on the assumption that the applicant is permitted to operate an equine business from the site.

### **Design/Landscape:**

The proposed chalet building is of simplistic design and would not adversely impact upon the local landscape character. The chalet will be constructed in 'Ultra Dark Oak' timber cladding and timber windows and doors with bitumen shingles for the roof. The existing hedge adjacent to the Lane is proposed to be kept to existing height to provide screening of the building. It is recommended that a condition will be placed on any permission granted stating that cladding to be constructed in 'Ultra Dark Oak' and use of timber doors and windows and bitumen shingles for the roof of the chalet.

Overall it is considered that the proposed dwelling would not have an adverse impact on the character or appearance of the wider area.

### **Neighbour Amenity:**

Officers consider that the proposed increase in traffic related to the dwelling would be negligible and therefore it would not adversely impact upon neighbouring properties. The building itself will have no impact on neighbours.

### **Highways/Access:**

DCC Highways officers have not objected to the provision of a temporary dwelling, noting that the presence of a dwelling for workers accommodation associated to the business is likely to reduce traffic to and from the site.

### **Representations:**

The comments relating to the lack of mains water and electricity are noted. The agent has detailed that mains water will be sourced from neighbouring field on the southern side of the lane and piped under the road in the appropriate manner, a drawing has been submitted detailing this information.

The objection to the number of horses using the land is a historic argument that was agreed under the original planning approval for the stables and therefore not relevant to this application.

### **Planning Balance**

It has been demonstrated that the applicant intends to run a horse breeding business from this site and officers support the linked planning application submitted to allow the business use to take place. A business use of this nature requires a full time employee to live on site. The business use has not commenced however and its viability remains to be tested.

Subject to the justified rural need, there are no adverse impacts that would arise from this development

On this basis it is recommended that a temporary 3 year permission be granted for the rural workers dwelling to allow time for the business to be established and its viability tested.

If the application to allow a business use at the site (2267/17/VAR) is refused however there would be no justification for allowing this key workers dwelling and the recommendation would change to refusal

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

### **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

#### ***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  
DP7 Transport, Access & Parking  
DP15 Development in the Countryside

### **Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION  
(as considered by the Full Councils end Feb/Early March 2017)**

- SPT1 Delivering sustainable development
- SPT2 Sustainable linked neighbourhoods and sustainable rural communities
- TTV31 Development in the Countryside
- DEV1 Protecting amenity and the environment
- DEV2 Air, water, soil, noise and land
- DEV15 Supporting the rural economy
- DEV24 Landscape character
- DEV28 Protecting and enhancing biodiversity and geological conservation
- DEV31 Specific provisions relating to transport
- DEV37 Managing flood risk and Water Quality Impacts

**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.

**Proposed Conditions in Full:**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall in all respects accord strictly with drawing numbers 'Site with Access' and PLANS01 received by the Local Planning Authority on 6 July 2017.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. Prior to their installation details / samples of facing materials, and of roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved. Reason: In the interests of visual amenity.

4. This permission is for a temporary period of 3 years from the date of this decision notice, after which date the dwelling shall be removed from the site and the site restored to the reasonable satisfaction of the Local Planning Authority unless planning permission has been granted to allow the dwelling to remain after this date.

Reason: Permission is only granted having regard to the proposal to use the site for the commercial breeding of horses which would generate a need for on site residential accommodation. The applicant has not yet proven that this business is viable.

5. The occupation of the dwelling shall be limited to a person solely or mainly employed at the application site in the care of horses associated with the commercial breeding of horses at the application site(including any spouse or dependents of any such person, residing with them).

Reason: The development proposed is in an area where there is a presumption against new development except where a rural workers need has been established.



## PLANNING APPLICATION REPORT

**Case Officer:** Jenny Draper

**Parish:** Dartington

**Ward:** Dartington and Staverton

**Application No:** 4325/17/PAT

**Agent/Applicant:**

Mr Craig Horn  
Unit 2 - Charnwood House  
Marsh Road  
Ashton  
Bristol  
BS3 2NA

**Applicant:**

Vodafone  
Vodafone House  
The Connection  
Newbury  
Berks  
RG14 2FN

**Site Address:** Highways land adjacent car park, Huxhams Cross to Shinners Bridge, Dartington, Devon, TQ9 6JD

**Development:** Application for prior notification of proposed development by telecommunications code systems operators for a 10 metre replica telegraph pole and 2 no. equipment cabinets

**Reason item is being put before Committee:** Councillor Hodgson has requested this application is considered by the Development Management Committee in view of the siting of of this mast and further to the previous decision to refuse a mast at this site.



**Recommendation:** Prior approval not required

**Informative  
Accord with plans**

**Key issues for consideration:**

The application is a prior notification under Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of communications equipment. The case officer is required to consider whether prior approval is required for the siting and appearance of the development.

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**Site Description:**

The site for the mast and equipment cabinets is a grass verge, owned by Devon County Council Highways, located just off the A384 slightly to the north of Shinnars Bridge. To the east of the site is the road and then the car park for the Dartington Estate, in an elevated position behind a high hedge. To the north is the A384 and roundabout. To the west is a public car park and tennis courts.

**The Proposal:**

The application seeks a determination as to whether prior approval is required for a proposed telecommunications development by a Code Systems Operator and will be considered under Schedule 2, Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015. The proposal is to erect a replica telegraph pole and 2 equipment cabinets adjacent to the highway in Dartington. The mast will be 10 metres high and the two cabinets total 1.44 cubic meters. Drawing No.100 shows a 43m x 2.4m visibility splay has been plotted for the side road access to the primary school and car park demonstrating the equipment, which is 1.7m high, shall not impede the visibility for the roundabout. The above provided visibility splay caters for the 30mph conditions.

The proposed works are stated to be required as part of the Telecommunications Network.

**Consultations:**

These applications do not require consultations to be made.

**Representations:**

A site notice was posted on site in accordance with the requirements of The Town & Country Planning (General Permitted Development) (England) (Amendment) (No2) Order 2016 and three letters of objection from local residents raising the following concerns have been received:

- Out of keeping
- Dominant feature
- Impact on Trees
- Unknown detriment to an individuals' health
- Should be located within Webbers Yard Industrial estate
- No consultation with local schools and businesses

Dartington Parish Council were sent notification of the application and have chosen to comment:

Object on the following grounds: this is a retrospective application as work for the equipment cabinets has already been started; there are schools in the vicinity that have not been consulted; there is potential damage to the oak tree roots close by; the site has been misrepresented by the drawings which indicate that the mast is hidden by trees whereas the trees are some distance away.

In response to the concerns raised by Dartington Parish Council the following points are made:

- Underground works are permitted development and do not require planning permission.
- Letters to both Dartington Primary School and Brook School were sent on 21/08/2017 and a further pre-application letter with the amended plans was sent on 30/11/2017. Copies of these communications have been received by the Local Planning Authority 26<sup>th</sup> January 2018. No response from these communications have been received from either school by the applicant and no letters of objection from the schools have been received as part of this application.
- The mast is finished to look like a telegraph pole, with no additional antennae or dishes, and the reduced height of 10m is more in keeping with the existing street furniture.

### **Relevant Planning History**

3137/17/PAT - Prior notification for proposed development by telecommunications code system operator for 15m replica telegraph pole, 2no microwave dishes and 2no equipment cabinets – Refused 14/11/17

### **ANALYSIS**

The application requires the Local Planning Authority to determine whether the proposed works constitute permitted development under Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Based on the information submitted the proposal satisfies the general criteria in Part 16.

Schedule 2, Part 16, Class A.3 (4) says that before commencing development, the developer should apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the proposed development. Planning officers are satisfied that the proposed development would sit reasonably comfortably within its context.

This application has been submitted following the recent refusal of 3137/17/PAT for the erection of a 15m replica telegraph pole, 2no microwave dishes and 2no equipment cabinets.

This application proposes a reduction in the height of the mast to 10m with no additional dishes (antennae) attached and two equipment cabinets.

With regards to the justification for the proposed height, it is stated within the supporting statement that the height has been kept to its technical minimum which will enable good coverage to the target area. The permitted development legislation allows for ground based apparatus (excluding antenna) up to a height of 25m in undesignated areas, so this proposal is some 15m below that at a height of 10m and at this height the visual impact in this instance is not considered to be so significant that a reason of refusal could be justified or sustained at appeal.

The drawings show that the proposed mast is slim line in appearance and will have a similar appearance to existing street lighting columns and telegraph poles located in the area. The mast and cabinets will be sighted close to a large totem road sign on the same grass verge.

The submission includes a list of alternative sites which were considered and the reasons why they were not chosen.

The application has attracted 3 letters of public interest, part of which included raising objection to the proposal on the grounds of concerns relating to health. Paragraphs 45 and 46 of the National Planning Policy Framework states: -

*“45. Applications for telecommunications development (including for prior approval under Part 24 of the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:*

- the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college or within a statutory safeguarding zone surrounding an aerodrome or technical site*
- **for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission on non-ironising radiation protection guidelines***
- for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met*

*46. Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system, or **determine health safeguards if the proposal meets International Commission guidelines for public exposure.**”*

The application submission includes a Declaration of Conformity with the International Commission on Non-Ironising Radiation Public Exposure Guidelines (also referred to as an “ICNIRP Declaration”). On this basis the proposal complies with the above NPPF requirement in respect of public health, and refusal of the application on these grounds could not be substantiated at an appeal.

Within the submitted supplementary information, section 5, is a list of 21 different sites that have been considered and investigated prior to this application, with the reasons that they were not suitable.

On the basis of the above it is considered that the proposed development is permitted development under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and prior approval is not required.

***This application has been considered in accordance with Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).***

## **Planning Policy**

The application requires an assessment of whether the proposed development is “permitted development”. It is therefore not necessary to consider the planning merits of the application in relation to the Development Plan. The proposal is considered to comply with paragraphs 42-46 of the NPPF (Supporting high quality communications infrastructure).

## **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.

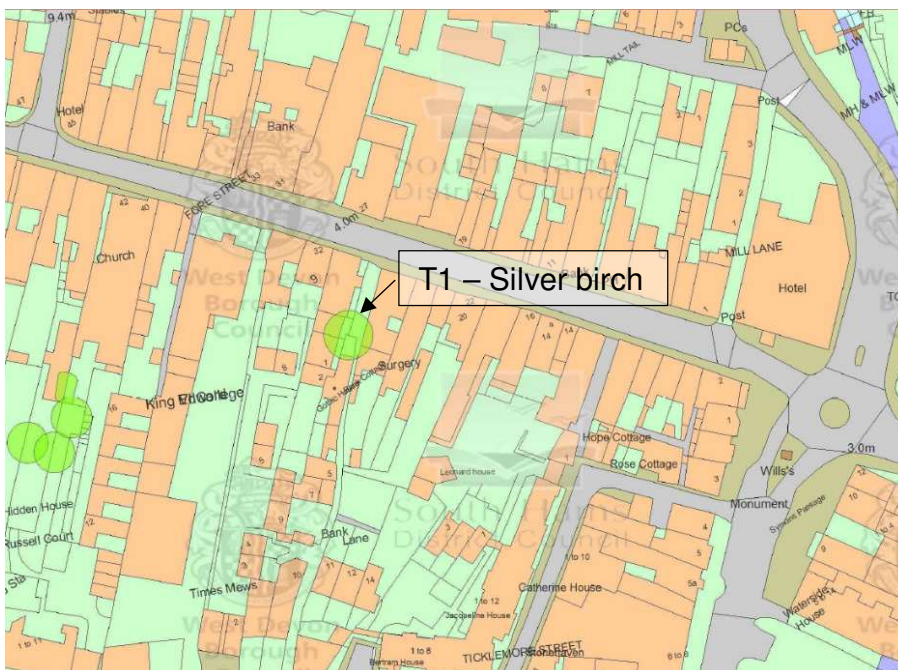
## Application to work on Trees subject to a Tree Preservation Order Assessment and Recommendation



**Tree Preservation Order :** 915  
**Site Address:** The Gothic House 4 Bank Lane Totnes TQ9 5EH  
**Application Register No :** 3342/17/TPO  
**Proposed works:** T1– Silver Birch - FELL  
**Date of Application :** 12/10/2017  
**Target Decision Date :** 07/12/2017

**Reason item is being put before DM Committee:** The Ward Members note the finely balanced nature of the decision in consideration of the importance of the tree and improvements to the setting of the listed dwelling resulting in the felling of the tree. Members have therefore requested that the application is considered by the Development Management Committee

Site assessed by : Alex Whish  
Date : 4<sup>th</sup> December 2017



### Recommendation: Conditional approval

#### Conditions:

1. Works to BS 3998:2010
2. Replacement planting – 2no. Yews

## **Key issues for consideration:**

The impact on the local amenity and character of the Conservation Area.

## **The proposal:**

The Tree Preservation Order application seeks to fell a single silver birch tree (TPO 915). The tree is located in front of Gothic House, 4 Bank Lane, Totnes. The building and tree are set back from the main town high street (Fore Street) adjacent to a public passage way which connects to Victoria Street.

Gothic House is being renovated in accordance with approved Listed Buildings consent and includes the renovation of the front garden space. The designs of the new garden propose the removal of the silver birch tree, with a more appropriate scaled replanting and reinstatement of paving and railings original to a historic scheme. The design also includes the planting of two yew trees that will be managed as topiary. They will be clipped to manage the size and form, in scale with the new garden design to mitigate the loss of the birch tree.

## **Consultations:**

- Totnes Town Council and Tree Warden – No objection raised with request that the tree is replaced with an appropriately sized tree
- Representations: None received

## **Relevant Planning History**

- 1494/17/LBC - Listed building consent for extension in rear courtyard, re modelling of existing kitchen/utility area, reopening of original door onto Bank Lane, provision of additional en suite bathrooms, installation of conservation area roof lights, reinstatement of railings and gate to front  
*Conditional Approval*
- 1493/17/HHO - Householder application for extension in rear courtyard, re modelling of existing kitchen/utility area, reopening of original door onto Bank Lane, provision of additional en suite bathrooms, installation of conservation area roof lights, reinstatement of railings and gate to front.  
*Conditional Approval*
- 3954/16/COU – Change of use from offices to residential – *Conditional Approval*
- 3706/16/TPO – T1 – Silver birch – Dismantled and fell – Lesser Works allowed (18.11.2016)
- 56/0261/15/TCA – T1 - Silver birch – fell – *TPO served* (29.01.2015)

## **Analysis**

The tree has been assessed and considered in its context, and the planning history noted. The application seeks to fell a single, silver birch, tree located in the front of Gothic House (Grade II, listed), and part of the streetscape. The reasons set out for felling the tree are to allow the implementation of a new garden design as part of the overall improvements to the main house, which is listed. The new design seeks to reflect the original historic garden with railings and central feature, and to open up views the front elevation of Gothic House. These improvements will benefit the public amenity offered by the interesting building and see a renovated garden that better reflects the heritage value. The railings and new front gate form part of the consents relating to the dwelling and are secured by condition.

Past applications to fell the tree have been refused given the tree's recognised amenity. However, previous applications offered no mitigation and did not relate to overall improvements now established

for the property and its setting. Also, retaining the tree will prevent installation of the original railings and laying of the paving.

Whilst it is acknowledged that the amenity value of the existing tree will be lost when it is felled, officers are of the view that the proposed re-instated garden, with new trees and additional features, will mitigate the loss and provide clear enhancements to the public realm, including opening up views of the historic building itself. The overall scheme and removal of the tree has also been discussed and considered by the Council's Conservation Officer, Graham Lawrence. Following an initial arboricultural assessment which recognises the amenity value of the tree, which is in a fair condition and late maturity, and subsequent consideration of proposed mitigation thought implementation of the new garden design and replacement planting, officers are of the clear view that the overall visual amenity and character of the Conservation Area will be retained and enhanced should the tree be felled.

### Conclusion

For the reasons outlined above and within the following site assessment, the application to fell the silver birch tree is considered acceptable. Officers are satisfied that a balance can be achieved between conserving the overall visual amenity, in consideration of the proposed new garden and planting of the two yew trees which will be subject to topiary.

This application is therefore recommended for approval, subject to appropriate conditions to secure replacement planting and implementation of the garden scheme.

### On Site Assessment

1.

Are the trees covered by a current TPO? **Yes**

Comments:

This Order was served following an application to fell the silver birch tree because it is within the Totnes Conservation Area.

2.

Are some, or all, of the works exempt from the need for formal consent? **No**

3.

Description of the tree(s) and location.

The single tree T1 – Silver birch is located within Bank Lane, set back approximately 20m off the main shopping street. The tree is clearly visible from Fore Street, growing between properties and its current form and density fits well within the setting. The tree has been sensitively reduced in heights and is in good structural and physiological condition.

4.

What is the amenity value of the tree(s)? **please circle**

<b>None:</b> Can't be seen	<b>Some:</b> i.e. Roadside trees and parks
<b>Very Little:</b> Seen with difficulty	<b>Considerable:</b> i.e. Town Centre
<b>Little:</b> i.e. Enclosed rear garden	<b>Great:</b> Significant feature tree

From which public locations can the tree(s) / hedge(s) be viewed? Adjacent public open space

Do the trees screen between properties **Yes**

Comments:

The trees currently screen the dwelling from the adjacent public open space. This screening will be substantially increased by the new planting within the recreation, with continuity also provided by the replacement tree.

5.

What impact will the works have on local amenity? **please circle**

<b>None:</b> Can't be seen	<b>Medium:</b> Noticeable but limited
<b>Low:</b> Very minor in appearance	<b>High:</b> Major impact

6.

Do the proposed works accord with good arboricultural or silvicultural practice? **Works not required**

7.

Is any damage likely to arise if consent is refused? **Some nuisance to adjacent buildings**

Comments: The tree will require regular assessment and minor works to prevent nuisance branched close to adjacent dwellings and lifting of paving.

8.

**Assessment.** Give a succinct assessment of the application and appraisal of the proposed works.

1. The tree is prominent within the street-scene when viewed at the entrance to Bank Lane from the high street. It is one of two trees noted within this overall street scene.
2. It obscures Gothic House and softens the scene and given its species is dappled and narrow crowned.
3. Its retention will require ongoing minor pruning to abate a nuisance. It has a reasonable relationship with the buildings.
4. There are no arboricultural defects
5. It has a reasonable life expectancy although in late maturity for species.
6. The proposed new garden design cannot be implemented if the tree remains due to root/trunk location. Proposed replacement planting with two yews which will be managed as topiary features.



9.

<p><b>Recommendation (please tick)</b></p> <p><b>Approval</b></p> <p>Works:</p> <p>Conditions: Yes Works to BS 3998 Yes Replacement Planting Yes Implementation of garden scheme with two yew trees.</p>
--

10.

<p>Has the application been assessed in relation to Article 1, Protocol 1, Article 2 and Article 8 of the Human Rights Act. <b>Yes</b></p>
--

**Tree Condition, assess and number accompanying plan or refer to submitted application report.**

Tree No.	Species	Height (m)	Spread (m) Average	Age Class	Life Expectancy	Condition	Assessment of Stated Reasons for Works
T1	Betula pendula	12m	4m	M	M	Fair	Fell – considered acceptable in context of garden design and setting of LB

Age Class

**Young** First 1/3 life expectancy  
**Middle Age** 1/3 to 2/3 life expectancy  
**Mature** Final 1/3 life expectancy

Life Expectancy

**S** Short (<10 years)  
**M** Medium (10-40 years)  
**L** Long (40 + years)

Condition

**Good** Free from significant defects with a healthy crown  
**Fair** Some defects, generally healthy crown  
**Poor** Structural defects, poor general health and vigour

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**South Hams District Council Agenda Item 7**  
**DEVELOPMENT MANAGEMENT COMMITTEE 7-Feb-18**

**Appeals Update from 19-Dec-17 to 26-Jan-18**

**Ward Charterlands**

APPLICATION NUMBER : **1826/16/FUL** APP/K1128/W/17/3171733  
APPELLANT NAME: Galion Homes (Bigbury) Ltd  
PROPOSAL : Demolition of existing buildings and the proposed development of 4 detached four-bedroom houses and new landscaping on the site formerly known as the Bay Cafe (resubmission of 2701/15/FUL)  
LOCATION : The Bay Café, Marine Drive, Bigbury On Sea, TQ7 4AS  
APPEAL STATUS : Appeal decided  
APPEAL START DATE: 08-September-2017  
APPEAL DECISION: Dismissed (Refusal)  
APPEAL DECISION DATE: 19-January-2018

**Ward Dartmouth and East Dart**

APPLICATION NUMBER : **0863/17/VAR** APP/K1128/W/17/3183940  
APPELLANT NAME: Mr A Davis  
PROPOSAL : Removal of condition 4 (Footpath use restriction) following grant of planning consent 1775/16/HHO  
LOCATION : 35 Crowthers Hill, Dartmouth, TQ6 9QX  
APPEAL STATUS : Appeal decided  
APPEAL START DATE: 26-October-2017  
APPEAL DECISION: Upheld (Conditional approval)  
APPEAL DECISION DATE: 15-January-2018

**Ward Loddiswell and Aveton Gifford**

APPLICATION NUMBER : **0302/17/FUL** APP/K1128/W/17/3177770  
APPELLANT NAME: BBH Chartered Architects Ltd  
PROPOSAL : Provision of dwelling and associated landscaping including restoration works to 18th Century walled garden (variation to planning permission 02/2222/14/F).  
LOCATION : Old Walled Garden, Little Efford Lane, Aveton Gifford, TQ7 4PA  
APPEAL STATUS : Appeal decided  
APPEAL START DATE: 28-July-2017  
APPEAL DECISION: Upheld (Conditional approval)  
APPEAL DECISION DATE: 25-January-2018

**Ward Salcombe and Thurlestone**

APPLICATION NUMBER : **1416/17/HHO** APP/K1128/W/17/3184334  
APPELLANT NAME: Mr A Nicholls  
PROPOSAL : Householder application to retain external straight steps and install a balustrade to match the colonnade  
LOCATION : The Grange, Cliff Road, Salcombe, TQ8 8JQ  
APPEAL STATUS : Appeal decided  
APPEAL START DATE: 18-October-2017  
APPEAL DECISION: Dismissed (Refusal)  
APPEAL DECISION DATE: 08-January-2018  
APPLICATION NUMBER : **1417/17/LBC** APP/K1128/Y/17/3186054  
APPELLANT NAME: Mr A Nicholls  
PROPOSAL : Listed Building Consent to retain external straight steps and install a balustrade to match the colonnade.  
LOCATION : The Grange, Cliff Road, Salcombe, TQ8 8JQ  
APPEAL STATUS : Appeal decided  
APPEAL START DATE: 18-October-2017  
APPEAL DECISION: Dismissed (Refusal)  
APPEAL DECISION DATE: 08-January-2018

APPLICATION NUMBER : **3468/16/HHO** APP/K1128/F/17/3172620  
APPELLANT NAME: Mr A Nicholls  
PROPOSAL : Householder application for retrospective permission for rebuilding a small section of stone wall, including a porthole and climbing plants as part of the upper garden

LOCATION : The Grange, Cliff Road, Salcombe, TQ8 8JQ  
 APPEAL STATUS : Appeal decided  
 APPEAL START DATE: 18-July-2017  
 APPEAL DECISION: Dismissed (Refusal)  
 APPEAL DECISION DATE: 08-January-2018  
 APPLICATION NUMBER : **3469/16/LBC** APP/K1128/F/17/3172620  
 APPELLANT NAME: Mr A Nicholls  
 PROPOSAL : Listed building consent for retrospective permission for rebuilding a small section of stone wall, including a porthole and climbing plants as part of the upper garden.

LOCATION : The Grange, Cliff Road, Salcombe, TQ8 8JQ  
 APPEAL STATUS : Appeal decided  
 APPEAL START DATE: 18-July-2017  
 APPEAL DECISION: Dismissed (Refusal)  
 APPEAL DECISION DATE: 08-January-2018  
 APPLICATION NUMBER : **BF/SH/LBEN/Grange** APP/K1128/F/17/3172620  
 APPELLANT NAME: Mr A Nicholls  
 PROPOSAL : Enforcement Notice - Without Listed Building Consent, raising the height of a stone garden wall with a porthole design  
 LOCATION : The Grange, Cliff Road, Salcombe, TQ8 8JQ  
 APPEAL STATUS : Appeal decided  
 APPEAL START DATE: 18-July-2017  
 APPEAL DECISION: Dismissed (Refusal), Notice Upheld  
 APPEAL DECISION DATE: 08-January-2018

APPLICATION NUMBER : **2451/17/HHO** APP/K128/D/17/3190997  
 APPELLANT NAME: Mr A Nicholls  
 PROPOSAL : Householder application for external store beside garage screened by stone wall and landscape  
 LOCATION : The Grange, Cliff Road, Salcombe, TQ8 8JQ  
 APPEAL STATUS : Appeal Lodged  
 APPEAL START DATE: 22-January-2018  
 APPEAL DECISION:  
 APPEAL DECISION DATE:

APPLICATION NUMBER : **3627/16/FUL** APP/K1128/W/17/3184378  
 APPELLANT NAME: Mr D Thompson  
 PROPOSAL : Proposed garages, bin store, access path and associated landscaping to serve two dwellings approved under extant planning permission 41/2271/05/RM  
 LOCATION : Lorima, St Dunstons Road, Salcombe, TQ8 8AR  
 APPEAL STATUS : Appeal decided  
 APPEAL START DATE: 26-October-2017  
 APPEAL DECISION: Dismissed (Refusal)  
 APPEAL DECISION DATE: 12-January-2018

APPLICATION NUMBER : **3968/16/FUL** APP/K1128/W/17/3183532  
 APPELLANT NAME: Mr D Rossiter  
 PROPOSAL : Provision of residential dwelling (resubmission of 1880/16/FUL)  
 LOCATION : Development site at SX 693 404, Kennel Field, Galmpton, Hope Cove, TQ7 3EY  
 APPEAL STATUS : Appeal decided  
 APPEAL START DATE: 23-October-2017  
 APPEAL DECISION: Dismissed (Refusal)  
 APPEAL DECISION DATE: 29-December-2017

APPLICATION NUMBER : **2432/17/HHO** APP/K1128 /D/17/3189764  
 APPELLANT NAME: Mr & Mrs Twelves, Mr M Twelves  
 PROPOSAL : Householder application for proposed alterations to existing dwelling (re-submission of 2619/16/HHO)  
 LOCATION : 4 Island Street, Salcombe, TQ8 8DP

APPEAL STATUS : Appeal Lodged  
APPEAL START DATE: 22-January-2018  
APPEAL DECISION:  
APPEAL DECISION DATE:

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