

South Hams Development Management Committee



Title:	Agenda										
Date:	Wednesday, 7th March, 2018										
Time:	2.00 pm										
Venue:	Council Chamber - Follaton House										
Full Members:	<p style="text-align: center;">Chairman Cllr Steer</p> <p style="text-align: center;">Vice Chairman 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										
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.										
Committee administrator:	Kathy Trant Specialist- Democratic Services 01803 861185										

1. Minutes

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To approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Committee held on 7 February 2018.

2. Urgent Business

Brought forward at the discretion of the Chairman;

3. Division of Agenda

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

4. Declarations of Interest

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

5. Public Participation

The Chairman to advise the Committee on any requests received from members of the public to address the meeting;

6. Planning Applications

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:

<http://apps.southhams.gov.uk/PlanningSearchMVC/>

(a) 3517/17/FUL

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Change of use from an agricultural barn to events venue including addition of wood framed slate roofed porch at the entrance, new window, a doorway and closure of covered parking space (resubmission of 1425/17/FUL)

Lower Widdicombe Farm, Stokenham, TQ7 2EG

(b) 2833/17/VAR

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Variation of condition numbers 2, 4 and 5 following grant of planning permission 2424/16/VAR

The Old Sail Loft, Newton Ferrers

	Page No
(c) 3392/16/FUL	39 - 58
Retrospective application for change of use of agricultural land and building to marshalling yard, parking and materials storage to service building works, revised access and landscaping	
The Cedar House, Moulton Hill, Salcombe	
(d) 2929/17/VAR	59 - 72
Variation of condition 2 following grant of planning permission 1372/16/FUL to allow for changes to plans of plots 1 and 2	
Land At The Fairway, Newton Ferrers	
7. Planning Appeals Update	73 - 74
8. Planning Performance Indicators	75 - 78

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MINUTES OF THE MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE HELD AT FOLLATON HOUSE, TOTNES, ON WEDNESDAY, 7 FEBRUARY 2018

Members in attendance			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr I Bramble	*	Cllr J M Hodgson
*	Cllr J Brazil	*	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 Smerdon, 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.42/17 MINUTES

The minutes of the meeting of the Committee held on 10 January 2018 were confirmed as a correct record and signed by the Chairman.

DM.43/17 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 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:** Demolition of existing house to rebuild new dwelling – Skerries, South Milton

DM.44/17 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.45/17 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:

3230/17/FUL Skerries, South Milton

Parish: South Milton

Demolition of existing house to rebuild new dwelling

Case Officer Update: South Milton has an emerging Neighbourhood Plan; this is a material consideration and as such must be given weight

Speakers included: Supporter – Mr Nick Stafford: Parish Council representative – Cllr Paul Davies; local Ward Members – Cllrs Pearce and Wright

Recommendation: Conditional Approval

During discussion, one Member was concerned that a full ecology report had not been submitted, particularly in light of issues raised regarding birds and bats and the position of the property on their flightpaths. A number of Members raised concerns over the design of the proposal and stated that it was in the wrong place as it did not fit with the more traditional style of neighbouring properties. Members also supported the parish council view that the proposal should be set down in a similar way to a house further along the road that was currently under construction. Other Members praised the contemporary design and drew comparisons with a nearby property that was similar in design, although even in praising the design, some Members were concerned at the impact of the proposal on the SSSI.

Committee Decision: Refusal

Reasons:

1. The development, by reason of its massing and design, including the level of glazing, represents an incongruous and inharmonious addition to the street scene which fails to conserve the character and scenic beauty of the AONB and undeveloped coast nor conform adequately to local distinctiveness. The proposal is therefore in conflict with policies DP1 and DP2 of the South Hams Development Policies DPD, policies CS7 and CS9 of the South Hams Core Strategy DPD, policies DEV1 and DEV2 of the emerging Joint Local Plan, policy Environment & Coastal Management 1: Landscape Policy and policy H4 of the emerging South Milton Neighbourhood Plan, and the relevant paragraphs of the National Planning Policy Framework

2. It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed development would not cause material harm to the local bird population that utilise the South Milton Ley SSSI. The scheme is therefore in conflict with policy DP5 of the South Hams Development Policies DPD, policy CS10 of the South Hams Core Strategy DPD and the relevant paragraphs of the National Planning Policy Framework.

2267/17/VAR Farleigh Meadows, Diptford, Totnes

Parish: Diptford

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

Case Officer Update: None

Speakers included: Objector – Mr John Foster: Supporter – Mr Barry James: Parish Council representative – Cllr Sue Franklin: local Ward Members – Cllrs Smerdon and Steer

Recommendation: Conditional Approval

Members were advised of the previous application on this site, and that in view of the support from the agricultural consultant, the only issue for consideration was highways impact. The Highways Authority had not objected to this application. The speakers raised a number of points that were not material planning considerations and these were not taken into account by the Committee. Members did however question the effectiveness of the proposal put forward by the applicant to monitor vehicle traffic to the site. Some Members wanted to support rural business, and in line with there being no objection from the Highways Authority, it was **PROPOSED, SECONDED** and on being to the vote declared **LOST** that the application be approved.

Committee Decision: Refusal

Reasons:

1. The roads giving access to the site are by reason of their inadequate width, poor horizontal alignment and junction are unsuitable to accommodate the increase in traffic likely to be generated by the business use and the development would, therefore be contrary to paragraph 32 of the National Planning Policy Framework
2. The proposed development would be likely to result in an increase in the volume of traffic entering and leaving the County Road through an access which does not provide adequate visibility from and of emerging vehicles, contrary to paragraph 32 of the National Planning Policy Framework.
3. It has not been demonstrated that there is adequate land available for the number of horses to be kept on the land proposed to support this business,

contrary to Policy DP18 of the South Hams Local Development Framework Development Policies, 2010.

4. The Section 106 Unilateral Undertaking submitted in support of this application would not deliver the level of traffic control as proposed by the applicant, in particular it makes no provision for the use of CCTV cameras to record vehicle registration numbers that visit the site. In the absence of a suitable Section 106 Obligation the means of traffic control proposed by the applicant could not be enforced, to the detriment of highway safety.

2012/17/FUL Farleigh Meadows, Diptford, Totnes

Parish: Diptford

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 (Resubmission of withdrawn application 0355/17/FUL)

Case Officer Update: In view of the previous application being refused, the officer recommendation for this application was that the application should be refused.

Speakers included: Objector – Mr John Foster: Supporter – Mr Barry James: Parish Council representative – Cllr Sue Franklin: local Ward Members – Cllrs Smerdon and Steer

Recommendation: Refusal

Committee Decision: Refusal

Reasons:

The development would represent unsustainable development due to the remote location of the site from the services and facilities of a settlement. As such it would be contrary to Policies CS1 and DP15 of the South Hams Local Development Framework, Policy TTV31 of the Plymouth and South West Devon Joint Local Plan and the objectives of the National Planning Policy Framework.

4325/17/PAT Highways land adjacent car park, Huxhams Cross to Shinnars Bridge, Dartington

Parish: Dartington

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

Case Officer Update: Three further letters of objection received not raising any new issues but one of the letters

was from Dartington Primary School. One further letter of support received.

Speakers included: Objector – Mr Chris Edwards: local Ward Member – Cllr Hodgson

During discussion, some Members raised concerns over the siting of the pole in proximity to three schools. Whilst the applicant had included 21 alternative sites considered within their submission, the local Ward Member asked that the application be refused in its current proposed location and that the local parish council would be keen to negotiate with the applicant to locate a more suitable site. It was **PROPOSED, SECONDED** and on being put to the vote declared **LOST** that the application be refused. Other Members accepted that the location was acceptable, and in view of the applicant having had a previous application refused on grounds of height, felt that measures had been taken to address previous concerns and make this application acceptable.

Recommendation: Prior Approval Not Required

Committee Decision: Prior Approval Not Required

3342/17/TPO The Gothic House, 4 Bank Lane, Totnes

Parish: Woodleigh

Proposed works: T1 – Silver Birch - FELL

Case Officer Update: None

Speakers included: local Ward Members – Cllr Green (statement read), and Cllr Vint

Members discussed this application in great detail and views were mixed. Whilst some Members wanted to retain the tree, others could see the benefit of felling the tree to better show off the Gothic House and appreciated that it would be replaced with a garden design more in keeping with the original plans for the property. It was initially **PROPOSED, SECONDED** and on being put to the vote declared **LOST** by Chairman's casting vote that permission to fell the tree be refused.

Recommendation: Conditional Approval

Committee Decision: Conditional Approval

Members noted the list of appeals as outlined in the presented agenda report. The COP Lead Development Management presented further detail on specific cases. Members asked that the officer who had presented the case for the Council in respect of the appeal for Bay View Café, Bigbury on Sea, should be congratulated on his hard work and the successful outcome of the appeal.

(Meeting commenced at 2.00 pm and concluded at 5.45 pm)

Chairman

Voting Analysis for Planning Applications – DM Committee 7 February 2018

Application No:	Site Address	Vote	Councillors who Voted Yes	Councillors who Voted No	Councillors who Voted Abstain	Absent
3230/17/FUL	Skerries, South Milton	Refusal	Cllrs Holway, Brown, Rowe, Vint, Hitchins, Pearce, Hodgson, Bramble (8)	Cllr Steer (1)	Cllrs Cuthbert, Brazil, Foss (3)	(0)
2267/17/VAR	Farleigh Meadows, Diptford, Totnes	Conditional Approval	Cllrs Cuthbert, Bramble, Foss (3)	Cllrs Rowe, Holway, Brown, Pearce, Vint, Hitchins, Hodgson, Steer (8)	Cllr Brazil (1)	(0)
2267/17/VAR	Farleigh Meadows, Diptford, Totnes	Refusal	Cllrs Rowe, Holway, Brown, Pearce, Vint, Hitchins, Hodgson, Steer (8)	Cllrs Cuthbert, Bramble, Foss (3)	Cllr Brazil (1)	(0)
2267/17/FUL	Farleigh Meadows, Diptford, Totnes	Refusal	Cllrs Holway, Brown, Rowe, Vint, Hitchins, Pearce, Hodgson, Bramble, Steer, Foss (10)	(0)	Cllrs Brazil, Cuthbert (2)	(0)
4325/17/PAT	Highways land adjacent car park, Huxhams Cross to Shinnars Bridge, Dartington	Refusal of Prior Approval	Cllrs Hodgson, Brazil, Vint (3)	Cllrs Steer, Foss, Holway, Pearce, Hitchins, Bramble, Cuthbert, Rowe (8)	Cllr Brown (1)	(0)
4325/17/PAT	Highways land adjacent car park, Huxhams Cross to Shinnars Bridge, Dartington	Prior Approval Not Needed	Cllrs Steer, Foss, Holway, Pearce, Hitchins, Bramble, Cuthbert, Rowe (8)	Cllrs Hodgson, Brazil, Vint (3)	Cllr Brown (1)	(0)
3342/17/TPO	Gothic House, 4 Bank Lane, Totnes	Refusal	Cllrs Bramble, Vint, Brazil, Hodgson (4)	Cllrs Steer, Holway, Pearce, Brown (4) Refusal lost on Chairman's casting vote	Cllrs Foss, Cuthbert, Hitchins, Rowe (4)	(0)
3342/17/TPO	Gothic House, 4 Bank Lane, Totnes	Approval	Cllrs Steer, Holway, Pearce, Brown (4) Application approved on Chairman's casting vote	Cllrs Bramble, Vint, Brazil, Hodgson (4)	Cllrs Foss, Cuthbert, Hitchins, Rowe (4)	(0)

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PLANNING APPLICATION REPORT

Case Officer: Kate Cantwell

Parish: Stokenham **Ward:** Stokenham

Application No: 3517/17/FUL

Agent/Applicant:

Mr Ross Porter-Ward
2 Bluewaters
Stokenham
Kingsbridge
TQ7 2EG

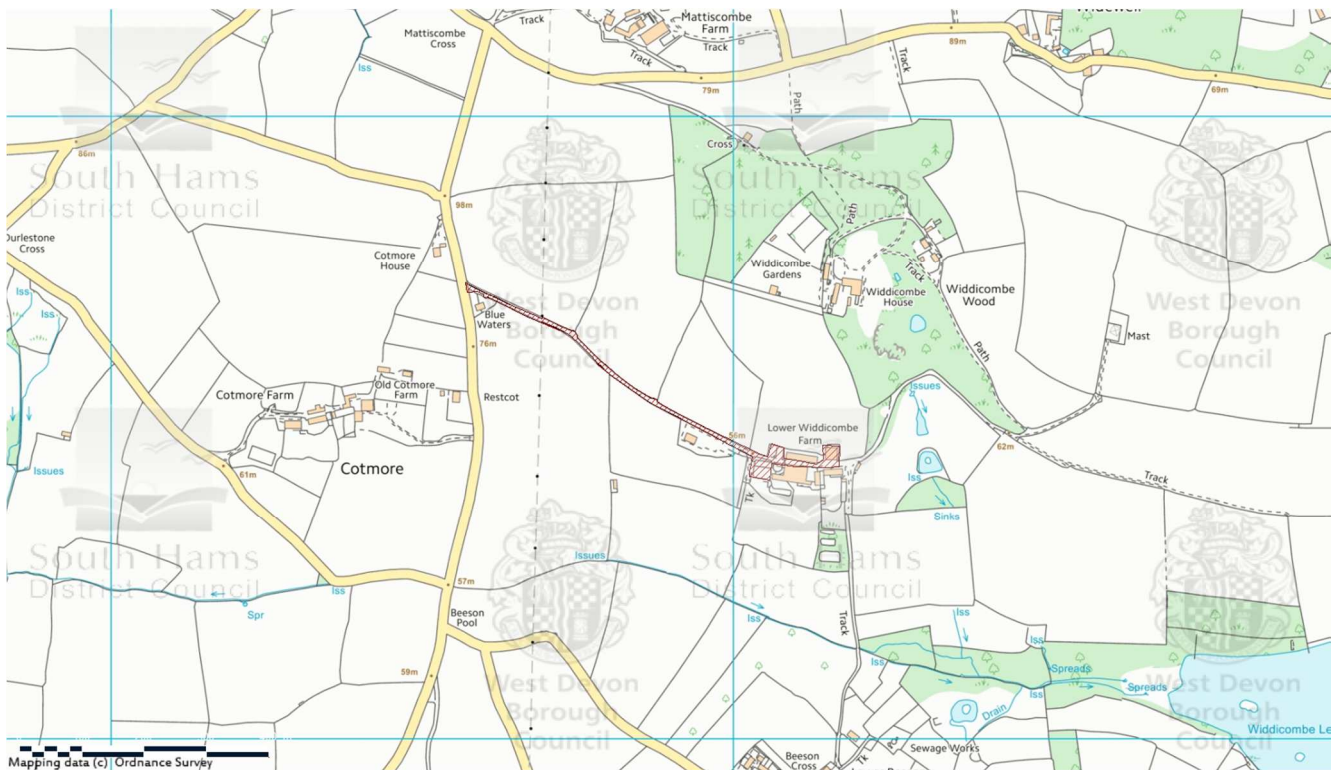
Applicant:

Mr Ross Porter-Ward
2 Bluewaters
Stokenham
Kingsbridge
TQ7 2EG

Site Address: Lower Widdicombe Farm, Stokenham, TQ7 2EG

Development: Change of use from an agricultural barn to events venue including addition of wood framed slate roofed porch at the entrance, new window, a doorway and closure of covered parking space (resubmission of 1425/17/FUL)

Reason item is being put before Committee: At request by Cllr Brazil due to impact on residential amenity, specifically noise.



Recommendation: conditional approval

Conditions

- Standard commencement
- Development in accordance with plans
- No live or recorded music outside the building
- No music audible at nearest lawful residential dwelling after 23:00 hours
- Activities shall cease on site by 01:00 hours
- Number of events restricted to 20 in any single calendar year
- Implementation of the recommendations of the ecology report
- Submission of details of external lighting
- Construction management plan
- Visibility splays as approved to be maintained thereafter
- Details of proposed access, retaining walls, verges, embankments and visibility splays
- Prior provision of parking

Key issues for consideration:

- Principle of development and the need for a countryside location
- Amenity impacts in terms of traffic on local highway network and noise
- Impacts on the AONB in particular the special quality of tranquillity
- Ecology
- Economic impacts in relation to tourism
- Drainage

Financial Implications (Potential New Homes Bonus for major applications):

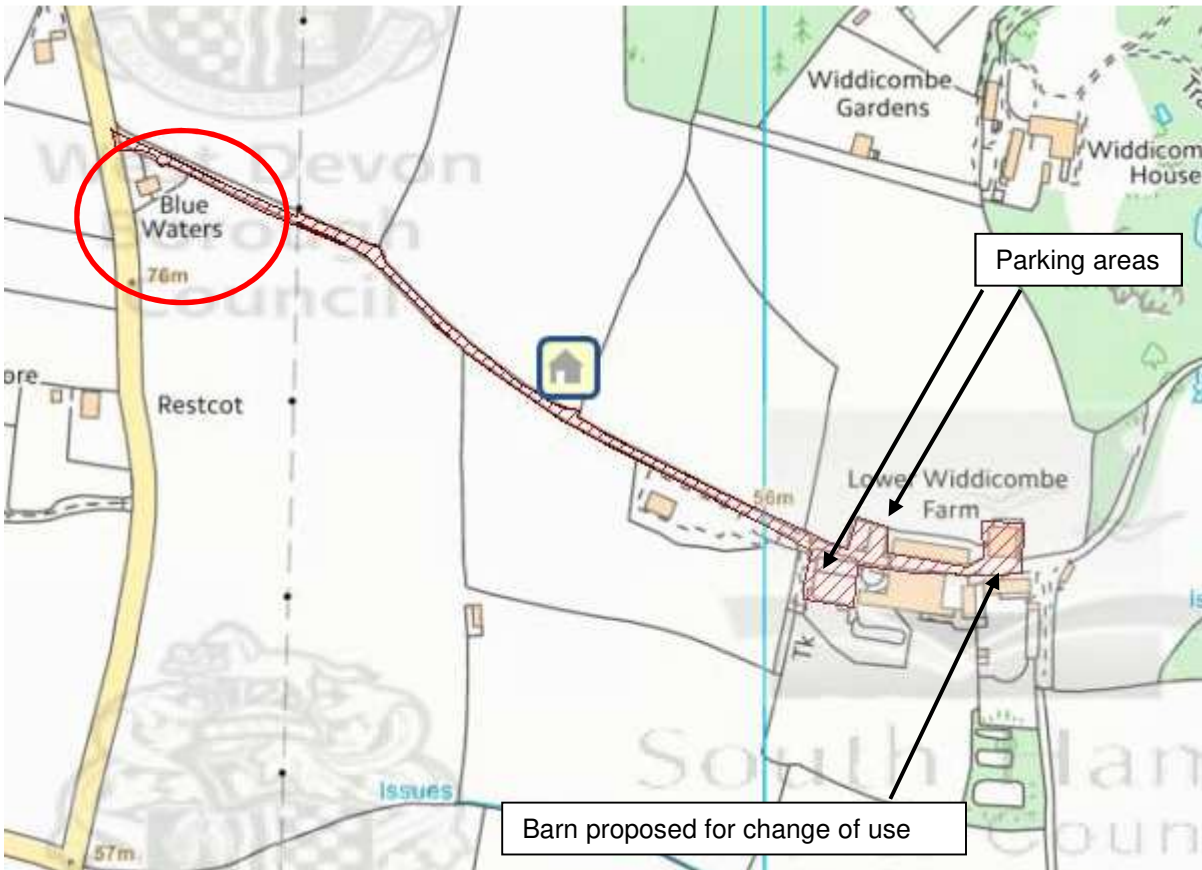
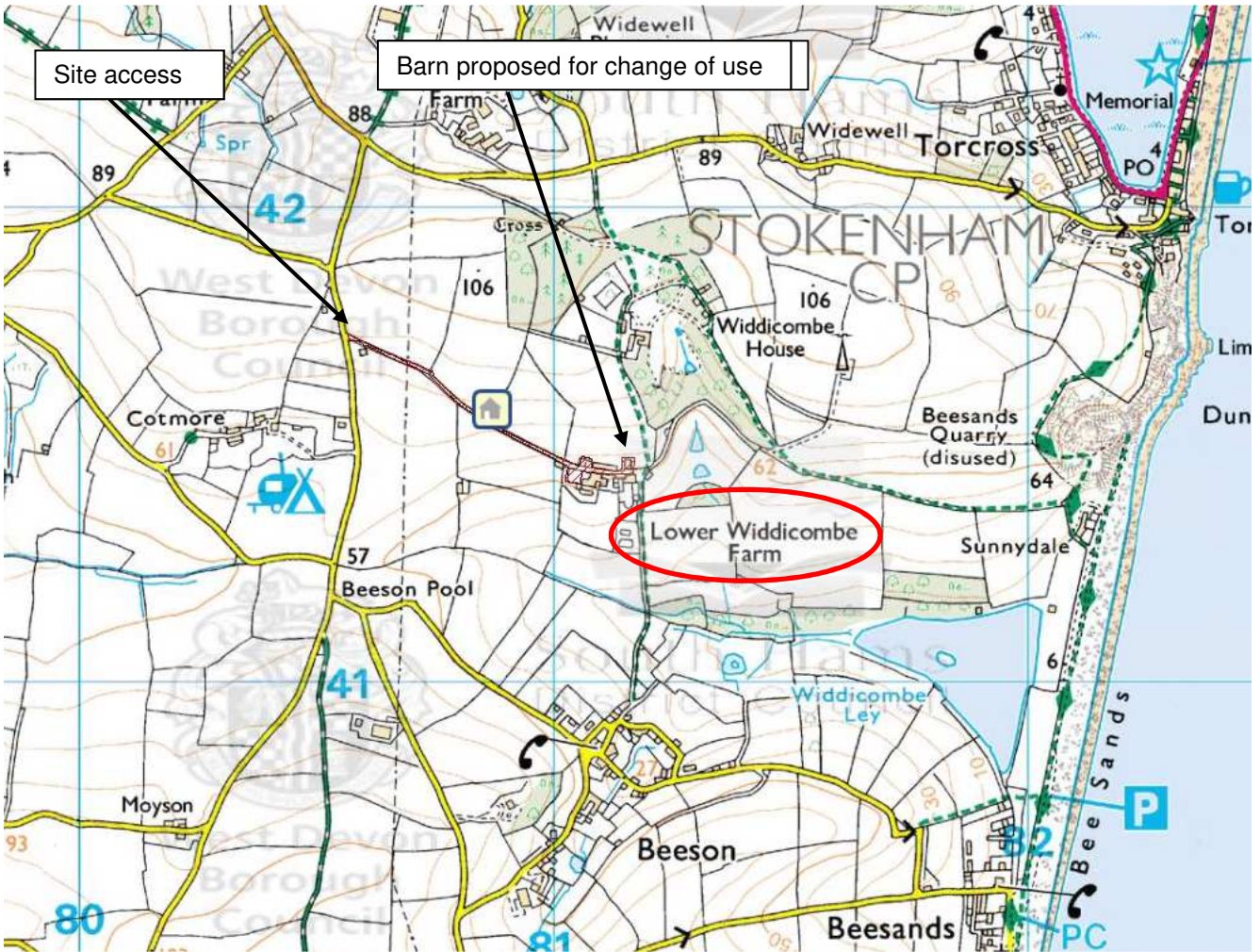
N/A

Site Description:

Lower Widdecombe Farm is located approximately 500m north of Beeson and 1km in land from Beesands coastline. The site is in the South Hams Area of Outstanding Natural Beauty and within the Heritage Coast.

The farm is accessed via a long private land which adjoins the public highway approximately 500m to the west. The access serves the farm and also the properties 1 & 2 Bluewaters which are located at the junction of the driveway and the public highway as shown on the plan below.

The farm includes a number of agricultural buildings and the original farmhouse. The farmhouse is used by the applicant's family as a dwelling and also offers self-catering holiday use.



The Proposal:

The applicant seeks consent to change the use of an agricultural building (which was previously used as a grain store) to a wedding venue. The physical changes to the building include the addition of a porch to the front/southern elevation, conversion of an attached smaller building to the west elevation into a kitchen and food preparation area.

The site boundary includes the access to the point where it meets the public highway and two areas to be used for guest parking. No works are proposed to the access or parking areas. The land subject to the change of use does not include all the farm buildings on site or the garden area to the south of the farmhouse. The red line boundary is limited to the access, car parking areas, the building for refurbishment and a portion of the yard area immediately outside it.

The proposal does not include provision of WC facilities and the applicant has stated that guests will need to hire mobile toilet facilities. The site boundary includes a small circulation space to the front/south of the venue.

Consultations:

- **County Highways Authority**

The Highway Authority notes this application is a resubmission of 1425/17/FUL and that this application submission includes more details regarding a parking layout, which are now acceptable. It also includes an indicative site access layout demonstrating that in principle sufficient access visibility could be achieved at the access with some widening of the access. The Highway Authority notes the road leading past the site carries low levels of traffic and would agree that the 85th percentile speeds are in the region of 25mph at the site access. Therefore the visibility splays shown indicatively are in accordance with the national guidelines set out in Manual for Streets. There is however a need for a topographical survey and accurate engineering designs including typical cross sections to be undertaken. Therefore the Highway Authority is recommending a condition to deal with this required extra information.

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram C where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33m metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

2. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no

construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

(o) site management arrangements, including the site office and developer contact number in the event of any construction/demolition related problems, and site security information. This CMP shall be strictly adhered to during the construction of the development hereby permitted, unless variation is approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, public convenience and highway safety and preventing inconvenient obstruction and delays to public transport and service vehicles and to emergency vehicles.

3. The proposed access, retaining walls, verges, embankments and visibility splays, shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

- **Environmental Health Section**

As long as all weddings were within the barn and not within a marquee the actual amenity impact can be controlled should it become necessary to do so. In relation to alternative legislation, private parties do not require a licence and therefore it is possible that unless alcohol is being sold then it is unlikely to require a licence and therefore we will not have controls over numbers through the licensing regime.

If you are minded to control noise through a condition then I would say that we would state that music should be inaudible at the nearest residential premises after 23:00 at night. In regards to maximum numbers this is governed by the fire risk assessment that is enforced by the fire brigade.

- **Town/Parish Council**

Objection due to concerns raised with regard to the proposed visibility splay to the south which it was locally asserted would need to be wider for safe access and egress of this volume of vehicles. It was felt that the construction of the barn made it difficult to sound proof and by not providing toilets this was not seen as good design to provide weddings and low key functions in this sensitive area. Should access be satisfactorily dealt with it was requested that due to concerns raised by neighbours and agreed by parish council that the applicant should meet with Environmental Health for sound checks be carried out to provide reasonable proposals to mitigate the problem of noise being carried across and around this valley. Introduction of an automatic 90 decibel cut out should also be installed.

- **South Hams AONB**

26th January 2018

Based on our subsequent discussion detailing feedback from Environmental Health in combination with the additional information submitted I am content to remove my holding objection in respect of noise and lighting subject to these aspects being controlled through appropriately worded conditions.

However, I note our Environmental Health colleague's request that an 11pm curfew is applied and I support this view. The applicant's current request for a midnight curfew is at odds with this position.

Though I note that the updated information does not include detail on lighting I understand from our previous discussions that the applicant is intending to only use low power low level lighting on a temporary basis in association with each wedding event.

The justification for noise and lighting conditions would be to ensure the conservation of AONB special qualities (relating to tranquillity and dark night skies/natural nightscapes) in this part of the South Devon AONB.

20th December 2017

In general I support the farm business diversification approach being taken here and I'm comfortable with this application on Landscape and Scenic Beauty grounds. However, until further information is supplied to adequately address noise and lighting aspects of the proposal I would need to register a holding objection on these grounds. Subject to the provision of satisfactory evidence regarding these aspects, should the LPA be minded to consent this application I would also wish to see appropriate conditions attached to any permission to control the hours of operation, number of events per year, maximum permitted sound level and restricting the use of external lighting to avoid instances of glare, conspicuity.

On checking the publicly available planning file documents for this application I cannot see anything other than a simple statement within the applicants' D&A statement that makes some reference to sound insulation:

"There are no close neighbours and the barn is not visible from any neighbouring properties, so we are sure that there would be no visual or sound impact on anyone. But to ensure that sound pollution isn't an issue, we intend to insulate and sound-proof the barn."

I would suggest that for a full application of this type, located within a sensitive part of the South Devon AONB, that this level of detail is required before determination.

The holding objection and associated request for conditions is based on the need to conserve and enhance tranquillity and natural nightscapes in this part of the South Devon AONB. Tranquillity, distinctive natural soundscapes and natural nightscapes form an important component of the South Devon AONB's special qualities for which the AONB was designated.

Representations:

Representations from Residents

Comments have been received from 21 letters of representation and cover the following points:

- The barn is elevated and opposite village of Beeson so sound will carry across valley.
- Sound from the occasional events held in this valley already does carry and impact
- There is only 4-500 metres distance and no sound mitigation features being on the side of valley.
- It is not clear what sound insulation means in the proposal
- There appears to be no numbers/hours of operations/days of operations/noise/live music proposed in the application.
- The main doors appear to be facing Beeson Village - and no doubt activity and sound will spill outside the building as well as the noise from entering and leaving the venue, especially in summer. Sound insulation effectiveness will be reduced - every time these doors are opened and may be left open in the summer.
- There are no restrictions on use or operations. 15-20 occasions per year is quoted - this could be higher or lower and could mean every other weekend.
- Noise from bands & wedding parties disturbing the quiet enjoyment of the environment.

- The access is at the crest of the hill with poor sight lines for traffic exiting the farm, and the existing junction (minor access) is actually in common use as a passing place at the crest of the hill.
- There is no existing signage (stop at junction/give way, junction ahead, lane marking - stop lines), and passing space south of the junction which appears to be removed by the local widening to create visual splays.
- Any live music/band/ disco music must be contained indoors and a deadline to stop all music at 11.00. With the exception of 'New Year's Eve' all events should be finished by 11.30
- Lighting, the house and barn has been previously lit up like a Christmas tree during parties. Any lighting outside should be low impact. In addition, I have a concern over the nocturnal wide life this area has abundance of owls and bats.
- Concern about number of cars using narrow lanes, especially at night
- Additional wear and tear on public highway from additional traffic
- Lights from vehicles using the access on the farm will disturb residents of Beeson
- Night time disturbance to wildlife including bats
- Applicant has not consulted residents
- Noise from guests celebrating outside the venue
- entirely out of keeping with the rural and agricultural nature of the land surrounding the village of Beeson and incompatible with AONB
- It is not true to state (as the application does) that the development is "not visible from any neighbouring properties with no visual or sound impact on anyone" The current farm is near the top of a ridge which is very visible from the properties 7 to 12 Chestnut Park.
- There is a potential fire risk if people let off fireworks/ lanterns etc. At the very least a condition -should be imposed banning fireworks etc. and for all activities to cease by 11pm.
- Inadequate vehicle parking
- Disturbance to guests of Lower Kellaton Farmhouse B & B
- Conditions should require (1) physical sound proofing to a given standard and (2) installation of an electronic noise limitation system whereby the sound/PA system will automatically cut out above a given level.
- The economic benefits would be lucrative to the owner of the venue but seemingly minimal to the local community.
- The events may deter tourists seeking peace and relaxation – there is a popular walk which runs past this venue
- 15 to 20 weddings a year could equate to one every weekend during the summer months
- Don't consider this to be farm diversification because the farm has not been farmed by the family for some time and has been leased to tenant farmers. Only recently have the farm buildings been taken back and house been renovated into a holiday let. The fields have continued to be let to a local farmer.

Relevant Planning History

None relevant.

ANALYSIS

South Hams Development Plan policy DP16: Conversion and re-use of existing buildings in the countryside states:

- "1. Proposals for the conversion or reuse of a building in the countryside will be permitted where:*
- a. it gives priority to economic uses before residential uses;*
 - b. it is complementary to and does not prejudice any viable agricultural operations on a farm and other existing viable uses;*
 - c. the form, bulk and general design of the building is in keeping with its surroundings and the proposal and any associated development will not harm its landscape setting;*
 - d. the building is structurally sound and is capable of conversion without the need for significant extension, alteration or rebuilding;*

e. it will not damage the fabric or character of any traditional building and, in the case of a Listed Building, the proposal will not damage the architectural or historic merit of the building or its setting.”

The proposed conversion of the building from its previous agricultural use to a wedding venue is an economic use and so satisfies criteria a. of the policy.

The new use will not prejudice the viable operations on the farm and other existing viable uses. The farm is arable and so there are no farm animals which might present human health issues through proximity of the agricultural use on surrounding land and buildings to the wedding venue. The tenant farmer does not live on site and so there is no conflict within the site between residential use by persons other than the applicant. The surrounding buildings are empty and disused and are in the ownership of the applicant and not used by the tenant farmer. The level of use anticipated for a wedding venue of this character would be unlikely to hinder farming operations. Occasional access to buildings where equipment or materials are stored could be arranged on the majority of days when the venue is not in use. As such criteria b. is satisfied by the proposal.

With reference to criteria c., the form bulk and general design of the building will remain unchanged. The wooden panelled upper parts of the walls will be repaired and render on the lower parts re-painted. An extension to create a large porch area on the southern side of the building where the main entrance will remain is proposed. The design and detailing of the porch has been refined since the application was submitted. The most recent drawing shows a slate roof and glass walls on timber supports. This is not a significant change to the general design, and will not be clearly visible in many local views as the building is positioned behind the farmhouse and Beeson which is on the opposite side of the valley to the south.

Criteria d. is satisfied in that the building appears to be structurally sound and capable of conversion without the need for significant extension alteration or rebuilding. It could in fact be converted for the proposed use without any extension. No rebuilding is proposed, the works are more accurately characterised as refurbishment and repair with the addition of the modest porch to the front. The building is not a heritage asset and has no architectural merit and the conversion is intended to add some character and charm to appeal to wedding guests. The building forms part of a cluster of farm buildings few of which are of historic interest, although the farmhouse and a small stone building to its east could be considered as non-designated heritage assets. The character of these buildings will not be adversely affected by the modest changes proposed to the barn and the change of use of the building will not detract from their character. Overall, therefore, the criteria of policy DP16 are satisfied and the proposal accords with this policy and is therefore, in principle, acceptable. Other matters are considered in detail below.

Policy DP15: Development in the Countryside states:

“1. Within the countryside, development will be permitted where it requires a countryside location and:
a. supports the essential needs of agriculture or forestry interests; or
b. meets the essential, small scale, and exceptional local development needs of a settlement which cannot be met within development boundaries.

2. All development in the countryside should:

a. make use of suitable existing buildings or previously developed land before proposing new buildings or development of greenfield land;

b. be well related to an existing farmstead or group of buildings, or be located close to an established settlement; and

c. be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.”

The proposed development, being a wedding venue, does not as such ‘require’ a countryside location, although its location in the countryside is part of its appeal and would add to the range of wedding venues of various types available in rural South Hams. With reference to criteria a., the

venue would not support the essential needs of agriculture, but the applicant has argued it would enable the farm to remain in their ownership and remain a working farm, avoiding parts of it being sold off for financial reasons. This policy is intended to avoid inappropriate development in the countryside which might change its character and be unsustainable (South Hams Development Plan paragraph 3.128). The supporting text for this policy also goes on to state:

“3.131 *The Council accepts that some limited, carefully planned development in the countryside is acceptable, to enable the countryside and local rural communities to evolve and thrive.*

3.132 *Uses that could be appropriate in the countryside include development necessary to support agricultural activity, facilitate rural diversification or to provide necessary local facilities. New development in the countryside should reuse previously developed land or existing rural buildings, where possible.”*

It is acknowledged that the applicant is the landowner and not the tenant farmer, but the change of use does apply to part of the farmstead and so the proposed development is still a type of farm diversification. The applicant states that the proposal will enable his family who have owned and farmed the land until recent years to continue to expand their business and continue to make enough money from the site to remain living there and retain a tenant farmer to work the surrounding land and therefore the agricultural character.

The second part of policy DP15 sets further criteria for development in the countryside. As required by criteria a. the development reuses an existing building and previously developed land around it. It is located within the existing cluster of the farm development and as such is well related to the farmstead, meeting criteria b. As discussed above the development will not prejudice the existing arable farming operations (criteria c.). Overall therefore the application accords with policy DP15 and is suitable for a countryside location.

Design, Landscape and AONB:

Policy DP1: High Quality Design requires that all development is high quality and *“in particular, respects and responds to the South Hams character in terms of its settlements and landscape.”* The refurbishment of the building and addition of a porch retain the agricultural appearance and character of the building. The effect on the character of the farmstead is therefore limited, and visual impacts of the building from beyond the site are therefore negligible. There are no new windows or doors and so lighting impacts on the dark rural skies and local amenity from the use of the building itself will be limited.

It is acknowledged that guests of the venue are likely to require some external lighting, and a planning condition is proposed to require the applicant to submit details of a lighting scheme. While it is anticipated that only a low level of lighting would be required to decorate the outside of the building, and it is noted that the front of the building faces into the courtyard which is screened in some views by existing buildings and landform, a number of local objections raised concern about lighting, including the AONB team, and so it is considered reasonable given the sensitivity of the location to request submission of details to ensure the dark skies and landscape character can be protected. It is also noted that the applicant could install some lighting on the building without the need for planning permission, but the proposed change of use introduces more frequent night time use of the site and so a condition is proposed.

The courtyard area is visually contained and largely screened from Beeson by the existing farm buildings. The Public Rights of Way (Stokenham Footpaths 16 and 17) which run to the east of the site will have some views of the site but these will remain largely unchanged due to the limited physical works proposed. The paths already pass through a working farmstead and that character will remain with occasional new activity from the wedding venue use.

Some responses to the public consultation raised concern about the impact of light from vehicles accessing the site as the track is visible from Beeson and the effect of this upon the qualities of the

AONB. This was not a concern raised by the AONB team, and it is noted that most of the access track is bordered by a mature hedge-bank on both sides which will be unaffected by the development. While there may be some lights evident from vehicles passing, the main beam will be pointed down toward the ground and contained behind the hedge bank when viewed from Beeson.

In terms of effects on landscape character (policy DP2: Landscape is relevant here), these are similarly limited. The South Devon AONB initially commented expressing general support for the farm business diversification approach being taken here and being comfortable with this application on Landscape and Scenic Beauty grounds. However, the AONB did request further information in relation to noise and lighting aspects of the proposal. The applicant has provided further detail regarding the insulation proposed and the AONB then revised its comments to withdraw the holding objection.

No further information has been provided regarding lighting and as already mentioned, in order to address local concern and the concerns of the South Devon AONB team, a condition requiring submission of lighting proposals is recommended.

The AONB also requested appropriate conditions attached to control the hours of operation, number of events per year and maximum permitted sound level. This is considered in more detail below.

Amenity effects

Noise

While the initial application documentation did not restrict the number of events per year to any number, following consideration of the consultation responses, further information was provided by the applicant suggesting a limit of 15-20 per year. Weddings are more likely to take place in the summer months and so this may result in a wedding being held on average each weekend through the summer period. Local residents have expressed concern over such frequency of events. This should be considered in terms of the likely effects of the development which, if adverse or significant would be exacerbated by frequency.

In relation to noise effects, planning conditions are recommended to limit live or recorded music to take place only within the building, requiring music to be inaudible at the nearest residential property outside the site boundary after 23:00 hours, and for all event activities on site to cease by 01:00 hours. These conditions address Environmental Health comments which raised no concern if events were held within the building, and noted this is quite a different scenario to events held in marquees which have much poorer noise amelioration properties.

The Environmental Health Specialist suggested that if a condition to control noise is considered, it should state that music should be inaudible at the nearest residential premises after 23:00 hours. The applicant maintains that in response to customer demand they would like to allow music to be played until midnight, however due to the remote rural site, its location within the AONB where tranquillity is a special quality, and in response to the level of public concern, it is considered appropriate to apply the 23:00 hours noise limit.

Some of the public comments referred to events which had taken place at Lower Widdecombe Farm in the past which they consider caused a noise disturbance. However it is not known whether those events took place in one of the buildings on site, in a marquee or in the open air. Importantly, the application only seeks permission to use an existing building which will be refurbished and its structure improved with soundproofing. The site area subject to the change of use only includes the building, parking areas and site access and does not include any other area of land capable of accommodating a marquee.

The proposed refurbishment, soundproofing and use of a building as a venue, in combination with the proposed planning conditions is considered sufficient to address amenity concerns in relation to noise and as such the development accords with the requirements of policy DP3: Residential Amenity.

Traffic and parking

The applicant estimates that the venue can accommodate 200 people. Guests mostly car share to weddings and so the number of vehicles movements and vehicles which require parking space is expected to be much less than that number. While there is local concern about additional vehicles on the local road network, the Highway Authority notes the road leading past the site carries low levels of traffic and agrees with the submitted assessment that the traffic speeds are in the region of 25mph at the site access. It raised no concern about the capacity or suitability of the road network to accommodate the additional traffic which might result from the proposed development.

The Highways Authority considers that the visibility splays shown indicatively on the submitted plans meet national guidelines set out in the Manual for Streets, but notes that a topographical survey and accurate engineering designs are required and as such recommends a condition to require submission of that information.

The proposal includes 2 separate parking areas which provide parking for 61 cars (39 in Carpark 1 and 22 in Carpark 2). People mostly car share to weddings and so the parking provision is considered to be adequate for the proposed use. The Highways Authority has raised no concern regarding the level of parking proposed. A condition secures the provision of parking before the first event takes place and the retention of these parking areas for guests to use at any event taking place at the venue.

Some of the items suggested as part of the Construction Management Plan by the Highways Authority have been removed from the proposed planning condition as they do not reflect the nature of the development and are not necessary.

Overall, for the reasons set out above, the development accords with policy DP7: Transport, Access and Parking.

Lighting

Beeson is approximately 500m south of the site which means any light which can be detected will be in the distance and will not affect amenity for other residents. Residential properties to the north, west and east of the site are similarly distant from the site, and to the north and east are separated by rising landforms so that there is no inter-visibility.

Responses to the public consultation raised concern regarding amenity effects of lighting and vehicle lights associated with the proposed use. This has been considered in detail in the earlier section of this report which consider light impacts on landscape character and the AONB. Given the intervening buildings and hedgerows, the absence of rooflights on the building and the proposed condition requiring submission of a lighting scheme, it is considered that lighting effects can be adequately controlled.

Ecology:

The application includes a Preliminary Ecological Appraisal report by Simon Geary Ecological Services Ltd. Its notes that the building shows some evidence of use by bats indicating a lower conservation status roost for a very small number of bats.

It recognises that without mitigation, the proposed development will impact on the roost in the building which could be lost through alterations proposed, or at least disturb the bats through the works and end use. As such a Bat Mitigation License will be required from Natural England. A condition of such a license is that a Registered Consultant must attend site where works may directly affect roosting bats.

The report recommends:

- to compensate for loss of pipistrelle crevice roosts two bat boxes are installed on outer walls of other buildings on the site in a non-illuminated location

- prior to works beginning a Registered Consultant should brief contractors that bats are present, on the law protecting bats, measures to protect them, good working practices and what to do if a bat is found as well as methods for working around bats and potential roosts.
- Due to sensitivity of bats to lighting, low luminaires should be chosen and illumination should avoid hedges and trees and field boundaries.

With these measures secured through planning conditions a favourable conservation status can be maintained and the requirements of DP5: Biodiversity and Geological Conservation as well as NPPF paragraph 109 are met.

Drainage

There is no foul drainage proposed as no WC facilities are proposed. The existing building will retain existing surface water drainage arrangements.

Conclusion

The proposed development will enable the existing farm to diversify by offering up to 20 wedding events per year. It re-uses an existing building and previously developed land with minimal change to the external appearance of the building and character and appearance of the farmstead.

The development will provide jobs for the local family running the business and will support other local businesses through the conversion works, as suppliers for the events and for local guest accommodation.

While there is some local objection, there are no holding objections from statutory consultees. The additional information which has been submitted to support the application, and the proposed planning conditions can satisfactorily control the development and avoid adverse effects on the character of the AONB, residential amenity and protected species. Overall the proposed development is sustainable and accords with local and national planning policy with some benefits for the local rural economy. For the reasons set out in this report it is recommended that the application is approved subject to 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

CS1 Location of Development
 CS7 Design
 CS9 Landscape and Historic Environment
 CS10 Nature Conservation

Development Policies DPD

DP1 High Quality Design
 DP2 Landscape Character
 DP3 Residential Amenity
 DP4 Sustainable Construction
 DP5 Conservation and Wildlife
 DP7 Transport, Access & Parking

DP12 Tourism and Leisure
DP15 Development in the Countryside
DP16 Conversion and Reuse of Existing Buildings in the Countryside

South Hams Local Plan

SHDC 1 Development Boundaries

National Planning Policy Framework

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

SPT11 Strategic approach to the natural environment

SPT13 European Protected Sites – mitigation of recreational impacts from development

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV15 Supporting the rural economy

DEV20 Place shaping and the quality of the built environment

DEV24 Landscape character

DEV25 Undeveloped coast

DEV27 Nationally protected landscapes

DEV28 Protecting and enhancing biodiversity and geological conservation

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.

Planning Conditions

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 number(s) [to be inserted] received by the Local Planning Authority on 1 November 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. Live music, amplified music or live entertainment shall only take place within the building and shall at no time take place in the outside areas.

Reason: To prevent noise and disturbance to residents, to prevent the emission of noise above a level which would be detrimental to the aural amenity of the area and to protect the tranquillity of the AONB.

4. Music shall not be audible beyond the site boundary at any lawfully existing residential property (except Lower Widdecombe Farm) between the hours of 23:00 and 08:00.

Reason: In the interests of residential amenity.

5. All event activities on the site shall cease by 01:00 hours.

Reason: In the interests of residential amenity.

6. There shall be no more than 20 events held in any calendar year.

Reason: In order to protect residential amenity.

7. The recommendations, mitigation and enhancement measures of the Ecological Report, by Simon Geary Ecological Services Ltd dated 8 September 2017, shall be fully implemented and adhered to at all times.

Reason: To safeguard the interests of protected species

8. Prior to installation of any external lighting, full details of the location and specification including luminaire shall be submitted to and approved in writing by the Local Planning Authority. Lighting shall only be installed in accordance with the approved scheme and maintained as such thereafter.

Reason: To protect the countryside from intrusive development and to protect wildlife interests.

9. Prior to commencement of the approved change of use the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (k) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

This CMP shall be strictly adhered to during the construction of the development hereby permitted, unless variation is approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, public convenience and highway safety and preventing inconvenient obstruction and delays to public transport and service vehicles and to emergency vehicles.

10. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram C where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33m metres in both directions.

Reason: To provide adequate visibility from and of emerging vehicles.

11. The proposed access, retaining walls, verges, embankments and visibility splays, shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals.

12. Prior to the commencement of the use hereby approved the parking areas numbered 1 and 2 as shown on the approved plans shall be provided for the use of the venue guests. The parking areas shall be retained free of obstruction and made available for the use of the venue guests in conjunction with any event held at the venue.

Reason: To ensure that adequate parking is available to serve the consented use.

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PLANNING APPLICATION REPORT

Case Officer: Ian Lloyd

Parish: Newton and Noss **Ward:** Newton and Yealmpton

Application No: 2833/17/VAR

Agent/Applicant:

Mr Richard Boyt
South Hams Planning Ltd
7 Manor Park
Kingsbridge
TQ7 1BB

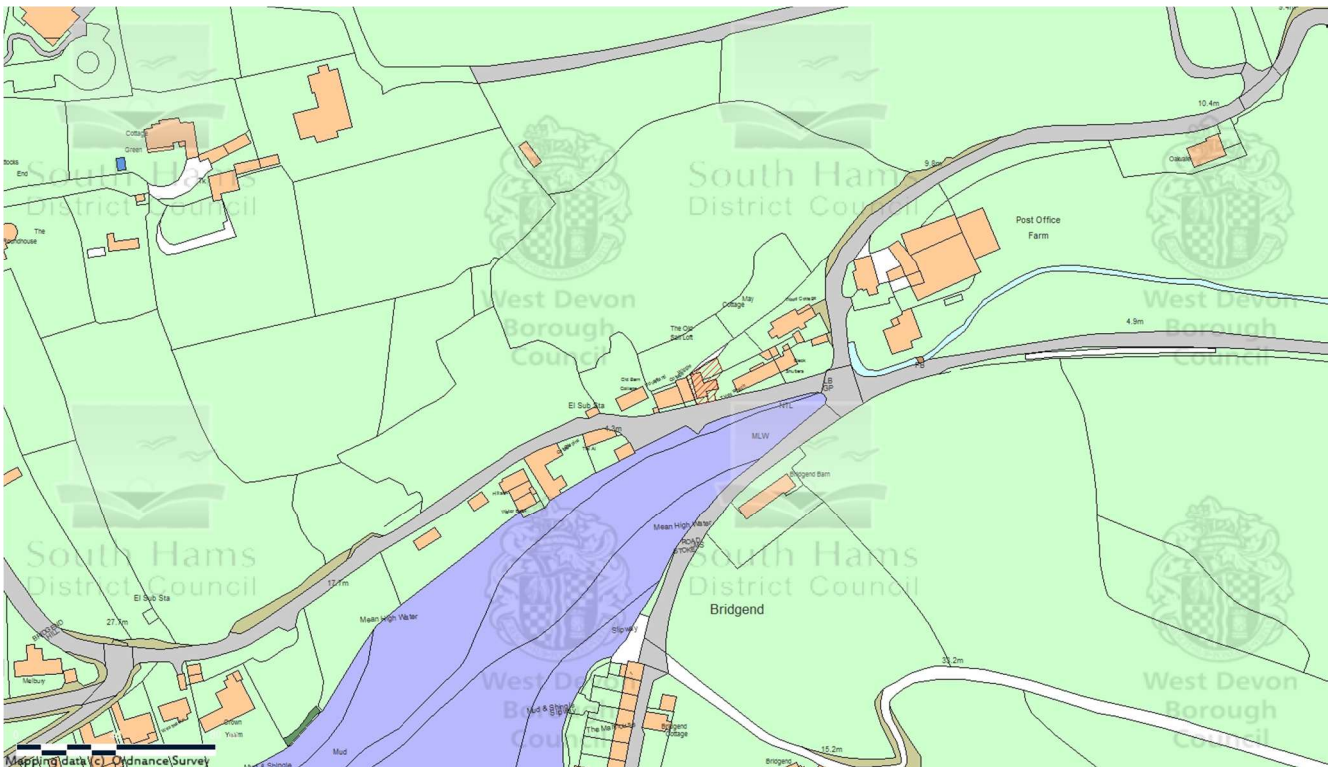
Applicant:

Mr Michael James
The Old Sail Loft
Bridgend
Newton Ferrers
PL8 1AW

Site Address: The Old Sail Loft, Road From Yealm View Road To W, Newton Ferrers, PL8 1AW

Development: Variation of condition numbers 2, 4 and 5 following grant of planning permission 2424/16/VAR

Reason item is being put before Committee: Referred by Local Member as it is a difficult and long-standing case and would like the Committee to see the site (and neighbouring land) for themselves and take the decision.



Recommendation: Refusal

Reasons for refusal:

1. In the absence of adequate screening measures, the proposal would result in overlooking and loss of privacy (direct and perceived) and is considered to be unneighbourly development, detrimental to the amenities and well-being of neighbouring occupiers contrary to Policy DP3 (1 and 2), Policy DP17 (1), paragraph 17 the NPPF, National Planning Practice Guidance on Design including paragraph 002 and emerging JLP Policy DEV 1(1).

Key issues for consideration:

The key issues are considered to be:

The principle of development/sustainability considerations surrounding further revisions sought to a householder development following approval, variation and implementation not in accordance with the previously approved plans.

Neighbour Amenity considerations, having regard to the impacts of the development on the amenities of neighbouring occupiers.

Design/Landscape considerations within the AONB.

Site Description:

The Old Sail Loft is a detached dwelling located on the north side of Bridgend Road, on the road from Yealm View Road to Widey Hill, Newton Ferrers. The detached dwelling sits back behind a small front garden and is elevated slightly above road level. From there the land rises sharply such that the main garden amenity area is in an elevated position to the rear north-east of the house. Gardens locally have been terraced to take account of the steeply changing levels and the application property is no exception in this regard.

Tides Reach, within which former garden the application property was built, lies to the east, with Wiggle Cottage to the west. The main aspect and orientation of the Old Sail Loft is south and east. The main aspect and orientation of Tides Reach is south and west.

The Old Sail Loft is white painted render under a natural slate roof. An integral garage is accessed via a sloping concrete apron. The remainder of the frontage is set behind an old natural stone wall.

Directly opposite the site across the road to the south is the upper reaches of Newton Creek. Across the creek fronting Stoke Road is the Grade II Listed dwelling Bridgend Barn

The Proposal:

The proposal is for a variation of condition numbers 2, 4 and 5 following the grant of planning permission 2424/16/VAR, itself a variation of earlier approval 0178/16/HHO.

The conditions sought to be varied are:

2. The development hereby approved shall in all respects accord strictly with the site location plan and SHDC 1, submitted as part of application number 0178/16/HHO, received by the Local Planning Authority on 16/02/16, and SHDC 2 received by the Local Planning Authority on 12/10/2016. Drawing number SHDC 1 shall only be read for the purposes of the location of the boundary fence.

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.

4. Notwithstanding the details approved as part of the development, prior to the occupation of the property a 2 metre high solid fence shall be erected along the line coloured green on the approved plan SHDC 1 in accordance with details to be submitted to and approved in writing by the local planning authority. The fence shall thereafter be retained and maintained in accordance with the approved details.

Reason: To protect the amenity and privacy of residents of adjoining property.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting this Order), the windows, hatched in blue on the approved drawing SHDC 2, shall be glazed in obscure glass and maintained as such thereafter. The windows shall be fixed shut and maintained as such unless a suitable means of opening has previously been approved in writing by the local planning authority.

Reason: To protect the amenity and privacy of residents of adjoining property.

Works have been undertaken not in strict accordance with the terms of the approved 2424/16/VAR permission. The premises have been occupied for some time now (well over a year) in breach of the conditions.

The key issues relate to the boundary fence (conditions 2 and 4) and to the requirement for areas of obscured glazing (condition 5).

In evaluating the proposals, the following applications and details are considered relevant:

0178/16/HHO - The original application, based on existing Drwg. No. GA1, proposed plans & elevations Drwg. No. GA2, and allocated Drwg. No SHDC1 (Block Plan) included a Design & Access Statement (D&AS) which referenced changes to the front bay, and dropping the cill height, enabling a view out from seat height. This is reference to the window seat which had been present and was to be retained. There is no apparent change in the overall dimensions of the bay window from the pre-existing original bay. No objections were received and the application was approved subject to 3 conditions (time limit, strict accordance with approved plans and materials to match). 1 roof light is shown on the second floor plan, but not on the block plan or west elevation.

2424/16/VAR – The subsequent variation application sought changes, including to the front bay and the east-facing dormer. The front bay extends lower on the front elevation than previously, though three glazed panes remain in the east-facing bay. The east facing dormer is larger.

Drwg. No. GA3 was amended by the LPA (called SHDC 2 to reference the requirement for obscure glazing and re-named). Drwg. No. SHDC 1 is a Block Plan. In response to objections, the applicant responded, confirming an intention to apply obscure glazing to the existing window and to attach trellis above the existing fence if necessary. More roof lights are shown on the second floor plan, but not on the block plan or west elevation.

The LPA amended/re-named the submitted plan to reference windows to be obscured glazed, to be secured by planning condition.

The applicant advises these were not agreed in advance and were unexpected.

2833/17/VAR – the current application seeks permission to vary the conditions. The submitted plans, block plan Drwg. No. GA3 (a) & plans & west elevation Drwg No. GA2 Amendment B show a 4 pane roof light. Photographs and details of the type of trellis intended have been submitted, showing a 20mm gap.

In response to the current application, there are no objections from the LPA to the operational development for which retrospective consent is effectively sought, shown on the submitted plans, namely the roof lights over the stairwell on the west elevation.

In seeking to vary the terms of these conditions, the LPA must consider the reasons they were imposed and the implications if they were lifted. These issues are addressed in detail in the report below.

The applicant's agent has confirmed it has not been possible to reach common ground and a solution that the applicant can tolerate.

The application would allow for a bathroom window and side bay window at the front of the house to left non-obscured. The variation of conditions sought would also allow for 1.8m trellis panels (not 2m solid panels as required by condition) to be erected within the applicant's land, retaining the existing fence in situ. This could be supplemented by climbing plants. No measures are proposed to the boundary where it returns towards the dwelling (2m solid panels required by condition), to allow the maximum opportunity for the failing hedge screen to regenerate without any new fencing in this area. Supplemental planting has recently been undertaken in an attempt to bolster the failing hedge.

Having listened to the alternatives, the applicant is satisfied that this strongly protects the privacy of the neighbour and indeed considers the relationship is far more private than any that existed before between the two houses.

The applicant wishes the variation of condition application to be determined in its submitted form as shown in GA2 Amendment B and GA3 (a) with the detail of the privacy trellis provided as supplemented by photographs. Confirmation has been received that no trellis panels will be added on the neighbour's side of the fence and all of the works proposed are within the control of the applicant and red line of the planning unit.

The neighbouring occupier at Tides Reach continues to strongly oppose changes to the conditions on the grounds of continued loss of privacy and overlooking to an extent that affects their well-being in as much as they no longer feel able to use their garden and conservatory as they did previously.

The neighbours: object to the lack of obscured glazing in the high level bathroom window unless a 2m high solid fence resolves the potential for overlooking; are satisfied with obscure glazing to the lounge window on the east elevation; would compromise on the side bay if temporary screening were applied for two years but continue to object in the absence of obscured glazing; Do not support 'temporary' screening to the upper hedge, accept a 2m solid fence is unnecessary but insist a 1m fence to be necessary; Consider only a 2m solid fence between the upper gardens, not trellis will suffice; and feel aggrieved the dwelling has been occupied for over a year, in clear breach of conditions causing continued amenity issues they want resolved as soon as possible so they are able to enjoy their garden and conservatory in the coming spring and summer.

The report below will address the issues in detail.

Consultations:

- Newton & Noss Parish Council: No objection

Representations:

Representations from Residents

Comments have been received objecting from one neighbouring occupier and cover the following points:

- Strongly oppose any change to the conditions for reasons well documented in emails previously exchanged, regarding continued loss of privacy to their property immediately next door. To clarify the neighbour's position is summarised as:

- Always objected to the lack of obscured glazing in the high level bathroom window, clear glazing at all on the east elevation Tides Reach should never have been allowed; Agreed that a 2m high solid fence would resolve the issue;
- Satisfied obscure glazing to the lounge window on the east elevation has been adhered to;
- Would compromise on the side bay if temporary screening were applied for two years;
- Does not support 'temporary' screening to the upper hedge, which now allows views into the previously private terrace, but would compromise for a fence of lower height (1m);
- A 2m solid fence between the upper gardens is necessary, a trellis will not suffice;
- Property has been occupied for over a year, in clear breach of conditions;

Two comments have been received in support and cover the following points:

- Having visited the site, believe the conditions imposed are unnecessarily restrictive on the owners and confer insignificant extra privacy to the neighbours. Residents of dwellings at close proximity to each other are bound to be aware of their neighbour's presence;
- It appears that somehow, by degrees, extra conditions have been placed on this property under the guise of infringement of privacy. The neighbour does not appear to have lost any of the privacy enjoyed prior to development, therefore agree with the Parish Council and support the proposal.

Relevant Planning History

2424/16/VAR Application for removal or variation of condition No2 following grant of planning consent 0178/16/HHO. Design and use improvements over original with little difference in appearance. Conditional Approval 14.11.2016

0178/16/HHO Householder application for proposed alterations to construct dormers, porch and conservatory. Conditional Approval 7.4.2016.

ANALYSIS

Principle of Development/Sustainability: The starting point for consideration is the development plan and the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 which require planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development which for decision making means approving development proposals that accord with the development plan.

The site lies outside the development boundary for Newton Ferrers. Policy DP17: Residential Extensions and Replacement Dwellings in the Countryside is therefore the most relevant Policy and advises proposals to extend existing dwellings in the countryside will be permitted provided that there will be no detrimental effect on the character, appearance and amenities of the site and surroundings.

Similar development has been approved previously, subject to conditions and there is therefore no objection in principle, subject to the detailed considerations of issues and impacts arising from the variation in plans and variation/removal of conditions sought, notably impacts on amenities and on the character and appearance of the surroundings, addressed in the report below.

Neighbour Amenity:

The development comprises of a number of extensions and alterations, already approved and implemented. Further change has been implemented, for which retrospective consent is now effectively sought. An additional roof light raises no amenity or other significant concerns.

The proposal has given rise to objections from neighbouring occupiers of Tides Reach to the east, and impacts on the well-being of neighbouring occupiers is a cause for concern.

There is no objection from the Parish Council and there are also two letters in support.

The applicants' position is that the scheme as revised has no undue impacts on the amenities of neighbouring occupiers which cannot be addressed by the addition of a section a 1.8m trellis fence which would extend above the height of the existing fence separating the upper gardens, and by obscured glazing to one window (already applied), but that the conditions imposed are excessive and unnecessary in other respects, including the requirements for further obscured glazing to two windows, and for any fence along the return between the upper and lower gardens of the respective properties. They advise the conditions were appended to the previous approval without their knowledge, not agreed in advance and not acceptable to them.

The neighbouring occupiers of Tides Reach to the east object on amenity grounds, considering the development undertaken to have increased overlooking and loss of privacy to an extent they consider has seriously impacted on their living conditions, well-being and private enjoyment of their property. They feel less inclined to use the conservatory and outdoor garden amenity areas as a result of feeling so overlooked.

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

Policy DP17: Residential Extensions and Replacement Dwellings in the Countryside seeks to ensure proposals to extend existing dwellings in the countryside will be permitted provided that there will be no detrimental effect on the character, appearance and amenities of the site and surroundings. Under the Policy, proposals to extend a dwelling in the countryside will be permitted provided the extension is subordinate in scale and proportion to the original dwelling.

Planning Practice Guidance on Design (Para. 002) advises good design should consider amongst other things the impact of development on well-being.

JLP Policy DEV1 Protecting amenity and the environment is the emerging policy has aims comparable with Policy DP3.

In attempting to reach a mutually acceptable solution to all parties, site visits to the respective properties have been undertaken and discussions taken place.

Having been implemented, it is possible to view and assess the implications of the development first hand, rather than to evaluate their potential perceived impacts based only on the plans. While such assessments are appreciably always subjective, nevertheless impacts can be more accurately gauged.

Condition 5 requires four windows to be obscure glazed. The north-facing window is not in dispute.

A site visit revealed a first floor east-facing window serving the lounge to have had an obscure glazing film already applied, to everyone's mutual satisfaction.

The site visit also revealed the bathroom window in the same elevation is sited such that overlooking from this window, a high level window, does not result in undue overlooking or loss of privacy. The neighbour considers obscure glazing is not necessary if the 2m solid fence is erected. Having seen the internal floor to ceiling height and the position of the window in relation to the WC, overlooking and loss of privacy is not considered by the LPA to be a problem and are of the view that the condition could be varied without undue amenity implications arising. This view is reached having regard to the neighbour's continuing objections.

With regard to the east-facing side bay window, the applicant's and the objector's positions have both changed during these discussions. The applicant is adamant no permanent obscure glazing will be applied. In these circumstances options explored included a temporary obscure glazing solution and initially understood to be mutually agreed. Two years would enable time for the neighbour to grow intervening screen planting, to limit views from the bay down into the lower garden and conservatory of Tides Reach. The applicant now does not want obscure glazing at all, even temporarily and has withdrawn from this possible solution. The neighbour feels that the screening should be the responsibility of the applicant, but is willing to compromise and undertake planting within the garden of Tides Reach, but it will take time to mature and temporary screening is necessary to allow for this eventuality, to enable then to use the garden and conservatory without being overlooked in the interim. The LPA agrees the responsibility should ordinarily lie with the applicants and considers this approach from the neighbour to be a reasonable and acceptable compromise position.

The position described above followed an assessment and discussions. An element of mutual overlooking, actual and perceived, does occur. This is demonstrated both by the objections and the objector's apparent reluctance to use the garden and conservatory due to privacy impacts and also by the applicant's actions. The applicant has bought a pleached tree in a large pot, which is sited in the front courtyard garden so that when the first floor south facing window (the window nearest Tides Reach, not the bay slightly further away) is open, the applicants can sit close to it and take in views (primarily south) without perceiving they are being overlooked by the occupiers of Tides Reach. This is considered to be perceived rather than actual overlooking, given the relative relationships between the properties involved. One possible solution discussed was to situate another such tree to screen views between the bay window and Tides Reach. The applicant was ultimately unwilling, due to cost and lack of space on the patio. It is accepted that there is limited scope for planting in this area (although some capacity does exist) and this subsequently gave rise to the possible temporary planting solution, to enable the same effect to be reached over time through planting within the garden of Tides Reach.

A reasonable assessment of amenity should reflect the levels of amenity generally in a local area. A bay window, while not commonplace, is not an unusual feature, nor normally one associated with giving rise to significant levels of overlooking. Impacts may increase from first floor level, with an opportunity to look both across and down. Impacts from bay windows are more usually to other neighbouring front gardens, but here it is to a side garden, one of two principal amenity areas for the property and where the neighbour's outdoor seating/dining area has long been located. The principal outlook of nearby properties is north-south, front to rear facing the water, not necessarily to the side/with the principal garden area of the application site raised above and overlooking a lower neighbouring amenity area, as is the case here. As such, while there are other instances where properties are elevated above other neighbours, the potential for overlooking is greater in the application circumstances than may be the average situation nearby.

The original first floor bay window had side glazing and a window seat and views were primarily south, though available eastwards if turning to face east on the seat. When this bay was originally permitted, it must have been deemed acceptable in amenity terms. It was not obscure glazed. The perception of the neighbour was that this did not previously cause undue problems. This was in part based on the neighbour's perception that the side bay was obscure glazed. From discussions with both parties, this apparent misconception may have arisen as a large number of panes in the bay had 'blown' and may have appeared to be obscure glazed.

The key concerns of the neighbour as related to the current form of the bay, is the change such that it is extended down slightly, there are now doors and a balcony and with no window seat, occupiers can more often and more visibly be seen standing in the bay to take in the river views, south and, importantly, east. While primarily these views are south and east to the water, the possibility exists to stand looking straight down into the Tides Reach lower garden and to the conservatory. The perception is this occurs more frequently than previously and results in loss of privacy.

Having seen the situation from both sides, when looking east from the first floor bay, while the main attraction is the view of the water, the garden of Tides Reach is clearly visible. The conservatory is also visible, but views directly into it are limited. This would likely change at night if the conservatory were lit. From Tides Reach, the bay and anyone in it are clearly visible from both the garden and parts of the conservatory.

The issue is therefore the level of overlooking, actual and perceived, whether the levels are beyond established levels locally, and whether harm to the neighbour's well-being arises as a result.

My view, having seen both situations, is that there is a level of mutual overlooking between the bay and the garden of Tides Reach. In the case of Tides Reach, overlooking and loss of privacy is both real and perceived.

The applicant has felt it necessary to screen a first floor south facing window close to the boundary with Tides Reach for perceived privacy reasons so that the window can be opened to take in views without feeling overlooked by Tides Reach. This has been achieved through siting the potted pleached tree to screen views. The level of possible overlooking up from the garden of Tides Reach into that window is limited, less than the level of overlooking possible down to the Tides Reach garden and conservatory from either this window or, more importantly, the first floor bay. Nevertheless, the applicant has felt it necessary to screen a view based on a perception of being overlooked. On this same basis, the occupier of Tides Reach perceives there to be an overlooking and privacy problem, which is affecting their well-being, for which a condition has been imposed in order to seek to address it. The applicant remains in breach of the condition. The condition is considered to be necessary and to meet the tests of conditions. While preferring a permanent solution, the neighbour is agreeable to this being a temporary condition to allow time for plants to be planted and to grow. The applicant is now unwilling to comply with any restrictive condition and wants the condition removed.

The applicant points out that changes to the bay were originally permitted without any condition requiring obscure glazing and that is the case. The property has also always had a side bay window. However, the subsequent elevational changes to the fenestration to introduce openable doors/ Juliette balcony, has given rise to increased concerns about overlooking, privacy and well-being.

The perception of loss of privacy and overlooking has been held to be a material planning consideration. It is clear there are mutual concerns in this regard. In relation to the bay, the concerns are those of the neighbour only.

In circumstances where, perhaps compounded by the apparent mutual animosity that now exists between the neighbours, the applicant feels it necessary to screen an existing view with planting, I have no doubt that the perception of overlooking is an issue for both parties. The reality is that there can be no significant overlooking into the applicant's first floor window, yet steps have been taken to screen perceived impacts. In circumstances where the level of overlooking of Tides Reach is greater, and the neighbour's well-being has suffered to an extent that they used the garden and conservatory less frequently last year than previously, as a result of feeling overlooked, I consider obscure glazing to be necessary in the circumstances, to address issues arising as a result of the planning application and to meet the tests of conditions.

I consider the neighbour at Tides Reach to have been reasonable in willing to compromise and accept temporary obscure glazing while plants could be planted and allowed time to grow and screen the views. Initially the applicant accepted this but has now withdrawn the offer. In the circumstances I consider it leaves the LPA little option but to refuse to remove the condition and to pursue enforcement against the breach of condition.

Turning now to the fence at the rear, successive applications have required details of fencing. The applicant continues to reside and has for well over a year, in breach of conditions. A solution is urgently required. There are two aspects to the fence: the fence which runs north-south separating the upper gardens in the north-east corner of the application site; and the section where it returns

running west-east separating the upper garden of the Old Sail Loft from the lower garden of Tides Reach.

Addressing the higher section of fencing first, the east-facing bedroom window formed as a result of the development faces east directly towards the upper level garden of Tides Reach. From within the bedroom and the upper level patio garden of the Old Sail Loft, no views of the ground level of the garden of Tides Reach are possible due to the prevailing levels. It would though be possible to see people using the upper garden. From Tides Reach, the new bedroom window is clearly visible from the upper garden and due to land level differences between the gardens, there is overlooking, actual and perceived.

In these circumstances the LPA is justified in seeking adequate screening to mitigate the impacts of overlooking. The neighbour, within whose grounds the Old Sail Loft was constructed, considers they own the fence and the applicant does not therefore have the right to attach trellis above it. They consider trellis does not necessarily resolve the problem and because there is visibility still possible through it, (20mm gaps), I concur. A solid 2m screen above existing ground level is considered to be required to address privacy issues. The existing fence appears to be nearing the end of its useful life. A replacement fence is preferable, either on land the applicant owns, or on the common boundary by agreement, or an independent fence set entirely within the applicant's land. The neighbour at Tides Reach has expressed a willingness to accept either solution by agreement, provided the fence is solid (not trellis/ capable of being seen through).

The applicant considers a trellis to be sufficient. A trellis detail and photographs of trellis panels in temporary situ have been provided. Screening is improved by the trellis, but inter-visibility still possible through the upper part where it extends above the existing fence. The increased overlooking has arisen as a direct result of the applicant's development and are not fully overcome by trellis, through which visibility is still possible. The condition requiring a solid fence is reasonable, necessary and meets the tests of conditions. In the circumstances the LPA has little option but to refuse permission to vary the condition and pursue enforcement action against the breach of condition.

However, this is only part of the fence.

Where the fence returns, a long-established low hedge set within a retaining wall exists running west-east separating the upper garden of the Old Sail Loft from the lower garden of Tides Reach. This hedge continues east into Tides Reach.

During the remodelling of the Old Sail Loft, though not indicated on the plans, steps up to the upper patio were amended and parts of the wall containing the hedge remodelled. This has damaged the hedge and its condition is such that there is now a greater level of visibility through it, down into the garden of Tides Reach.

The wall contains visible cement and little evidence of an adequate medium to sustain the renewal of the hedge. Some additional planting had recently taken place at the time of the site visit, but it is not known ultimately how successful either the regeneration of the original hedge or this new planting will be.

In the applicant's favour, the steps as remodelled, would appear to be lower at the point closest to this boundary than was previously the case. This reduces the capacity for overlooking at this point, nearest to the common boundary. However, the new bedroom exits onto the upper patio garden, and together with improved access afforded by the steps and the expansion of the property, increases the likelihood of a more intensive use of this area as the main garden amenity for the Old Sail Loft. There is now a greater level of overlooking and loss of privacy, actual and perceived, that existed previously.

Again, various alternatives were discussed with the parties.

Both parties agree a high (2 m) close boarded solid fence to be unnecessary. This would remove the long-standing river view for the applicant and be more prominent in public views (including from public vantage points within the AONB) and is not desirable. Nor is 2m necessary to prevent overlooking. It is visibility down into the lower garden of Tides Reach, through the failing hedge, which causes increased overlooking, and a low screen of 1m would suffice.

Various options were discussed, temporary and permanent, including a 1m screen fence, one side or other of the hedge.

The applicant does not want to attach any fence even a low one, even on a temporary basis, on either side of the hedge. It is accepted, as argued by the applicant, that this would reduce light to the hedge and delay its capacity to regenerate. This argument has validity and weight.

The neighbour wants permanent 1m screening so they feel able to use the lower garden and conservatory this year where they felt they could not last year, and having endured over a year, want a permanent solution now.

While both positions are understood and have validity, the applicant has carried out works which have had a perhaps unintended consequence, but nevertheless must be considered in relation to the requirement to satisfy the planning conditions.

It has already been over a year and the hedge is yet to re-establish properly. In these circumstances, there must be some doubt as to the capacity of the reconstructed wall to accommodate an effective hedge screen. The applicant has carried out supplemental planting, which may or may not be successful. Temporary screening measures would provide a short term solution, which could become a long term solution if the hedge fails completely.

The LPA considers there is a third way, for temporary 1m screening of the hedge.

This possible solution for a temporary screen, while reducing light to the hedge and delaying its possible regeneration, would both screen the garden temporarily in the interim (enabling the neighbour to feel at ease to use the garden this summer) and allow the progress on the regeneration of the hedge to be gauged.

It has already been over a year and the hedge is yet to re-establish properly. In these circumstances, there must be some doubt as to the capacity of the reconstructed wall to accommodate an effective hedge screen. The applicant has carried out supplemental planting, which may or may not be successful. Temporary screening measures would provide a short term and alternative possible long term solution.

However, neither party is willing to accept a compromise solution.

The reason for requiring the solid fence screening is to protect the amenity and privacy of residents of Tides Reach from the upper application land patio garden, looking down into the lower garden of Tides Reach. While the view is principally out to the water, because there is inter-visibility and people on the patio can be seen from the lower garden (and vice versa), even if their principal view is out over the garden, the perception is one of being overlooked. This would be negated by a reinvigorated hedge or a low screen.

The applicant is unwilling to consider any boundary screening here. In these circumstances, whereby the dwelling continues to be occupied in breach of condition and current circumstances give rise to adverse impacts on the privacy (real and perceived) and well-being of neighbours, the LPA has little option but to refuse permission and pursue enforcement against breach of condition.

Neighbourliness is a yardstick by which developments can reasonably and pragmatically be judged. Notwithstanding that the applicants consider they have addressed all amenity concerns, for the

reasons outlined above, the negative impacts this development has had and continues to have, in breach of conditions, on the amenities of neighbouring occupiers of Tides Reach by affecting privacy and overlooking and their right to the private and quiet enjoyment of their home and garden, are such that the proposed development is considered to be unacceptable, and in conflict with policies DP3, DP17, Guidance in the NPPF and planning Practice Guidance. This weighs significantly against the proposal in the planning balance.

Design/Landscape:

The site lies within the South Devon AONB, Heritage Coast and Undeveloped Coast. The application is assessed with regard to the potential impacts of the development on local character, including impacts on the AONB. The LPA has a duty under The Countryside & Rights of Way Act 2000 which provides a statutory framework for all policy, plan-making and decision-taking affecting the AONB by all public bodies, including local planning authorities and government agencies. Section 85(1) in particular is relevant to decision making in relation to the duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB.

The site lies within Devon Character Area (DCA) 49: Plymouth Sound Eastern Plateau
The site lies within Landscape Character Type (LCT) 4A Estuaries: "This LCT is found at intervals along South Devon coast where the major rivers become influenced by the marine environment. Dynamic landscapes which change often with tides and weather conditions. Strongly naturalistic and tranquil with semi-natural habitats that are highly important for biodiversity. Settlements are often associated with the estuaries and they form a popular destination for both land and water based activity".

Views and perceptual qualities include, general tranquillity and valued and visually attractive landscapes and visually dynamic landscape and seascape highly influenced by tides, weather conditions and seasons and with little light pollution.

Guidance in the NPPF requires great weight be afforded to conserving the landscape and scenic beauty of the AONB. Policies DP2 and CS9 address local character and visual amenity considerations. The LPA is required to take the necessary action to ensure that the natural beauty of the AONB is conserved and enhanced. The recently adopted South Devon AONB Partnership Planning Guidance for the South Devon AONB is a material consideration.

The development comprises of a number of extensions and alterations, already approved and implemented. Further changes have been implemented, for which retrospective consent is now effectively sought. An additional roof light raises no design or landscape considerations, not being visible in wider public views. No significant additional dark skies issues arise from the changes.

Having due regard to the weight to be afforded to conserving that character and natural beauty of the AONB, no significant issues are considered to arise.

Policies DP1 and CS7 require good design. Policy DP1 sets criteria for high quality design including the need to respect and respond to the South Hams character in terms of its settlements and landscape. Again no negative impacts arise.

Policy DP17: Residential Extensions and Replacement Dwellings in the Countryside seeks to ensure proposals to extend existing dwellings in the countryside will be permitted provided that there will be no detrimental effect on the character, appearance and amenities of the site and surroundings. Under the Policy, proposals to extend a dwelling in the countryside will be permitted provided the extension is subordinate in scale and proportion to the original dwelling. No negative impacts arise as a result of the design. Amenity issues are addressed above.

Heritage impacts are addressed below.

On balance no significant design or landscape concerns arise.

Other Matters:

Highways/Access: The application property lies on the north side of the road from Yealm View Road to Widey Hill, C classified road. The dwelling is set back from and elevated above the road.

No highway or access issues arise out of the proposed variation of conditions.

Heritage Considerations: As advised above, the site lies within Heritage Coast. The site is not within a Conservation Area (CA) or CA setting boundary. There are two Listed Buildings nearby to the east and opposite to the south. The setting of Bridgend Barn to the south is the only Listed Building whose setting is considered to be potentially affected by the proposals. The conclusion drawn is that no Listed Building setting impacts arise.

Ecology & Biodiversity: No significant ecology & biodiversity issues arise out of the proposed variation of conditions.

Flood Risk & Drainage: The dwelling and most of the garden lies within flood zone 1, at lowest risk of flooding, although flood zones 2 and 3 abut the southern boundary, including the road outside the site and which encroach slightly into the front garden. No significant flood risk or drainage issues arise out of the proposed variation of conditions.

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

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
- DP6 Historic Environment
- DP7 Transport, Access & Parking
- DP17 Residential Extensions and Replacement Dwellings in the Countryside

South Hams Local Plan (please delete as necessary)

- SHDC 1 Development Boundaries
- MP 12 Newton Ferrers and Noss Mayo

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

TTV32 Residential extensions and replacement dwellings in the countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV20 Place shaping and the quality of the built environment

DEV22 Development affecting the historic environment

DEV24 Landscape character

DEV25 Undeveloped coast

DEV27 Nationally protected landscapes

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV30 Trees, woodlands and hedgerows

DEV37 Managing flood risk and Water Quality Impacts

NPPF

National Planning Practice Guidance

The recently adopted Planning for the South Devon AONB: Planning Guidance Version 1 is a relevant Supplementary Planning Document (SPD).

Light Pollution in the South Devon Area of Outstanding Natural Beauty Guidance

A Landscape Character Assessment for South Hams and West Devon Draft Report Prepared by LUC February 2017

Newton & Noss Draft Neighbourhood Plan

Summary/Conclusions/Planning Balance

Matters not in dispute - In summary, matters not in dispute are the additional roof lights, which do not cause amenity problems and the east-facing lounge window has already been obscure glazed. Variations for these would be acceptable, though the application cannot be split.

High level east-facing bathroom window - while the neighbour maintains an objection this window if not obscured (unless a 2m solid fence is erected) the LPA considers there to be no undue overlooking arising from this window as constructed and would not object to it remaining clear glazed.

Bay window - The LPA would support a 2 year temporary glazing solution, also accepted by the neighbour, but in circumstances where the applicant is unwilling and wants the condition removed, the

LPA has no option where overlooking, loss of privacy and impacts on well-being arise, but to refuse permission to remove the condition.

Upper fence - The LPA does not consider the trellis solution, through which inter-visibility, though reduced, is still possible, to fully address concerns about overlooking, loss of privacy and impacts on well-being and has no option but to refuse permission to remove or vary the condition on the basis sought.

Lower fence - The LPA does not consider removal of the condition to be acceptable in circumstances whereby there is no guarantee or likelihood that the hedge has the capacity to regenerate or mitigation measures succeed in achieving former or acceptable levels of screening. The LPA considers the neighbour's position, seeking permanent screening now, to be unnecessary as a third way could potentially achieve similar results: A temporary 1m screen would allow time to see whether the hedge will in the future be able to once again act as an effective screen (while protecting the amenities of neighbours the condition was designed to do in the interim) and allow for a permanent screening solution if it is unsuccessful. This would address concerns about overlooking, loss of privacy and impacts on well-being. Such a condition is considered necessary and would have been an acceptable compromise to the LPA, but is not acceptable to either party. In circumstances whereby the LPA's suggested alternative solution has been rejected, and the applicant is unwilling to screen in this area, the LPA has no option but to refuse permission to remove the condition as sought.

Every effort has been made and exhausted with all parties to reach a compromise solution.

On balance refusal is recommended and the matter should be passed through for considerations as to the expediency of enforcement action in circumstances whereby the application cannot be supported on neighbour amenity and well-being impact grounds and occupation continues in breach of conditions.

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

PLANNING APPLICATION REPORT

Case Officer: Ian Lloyd

Parish: Salcombe **Ward:** Salcombe and Thurlestone

Application No: 3392/16/FUL

Agent/Applicant:

Mr Simon Greaves
The Cedar House
Moult Hill
Salcombe
TQ8 8LF

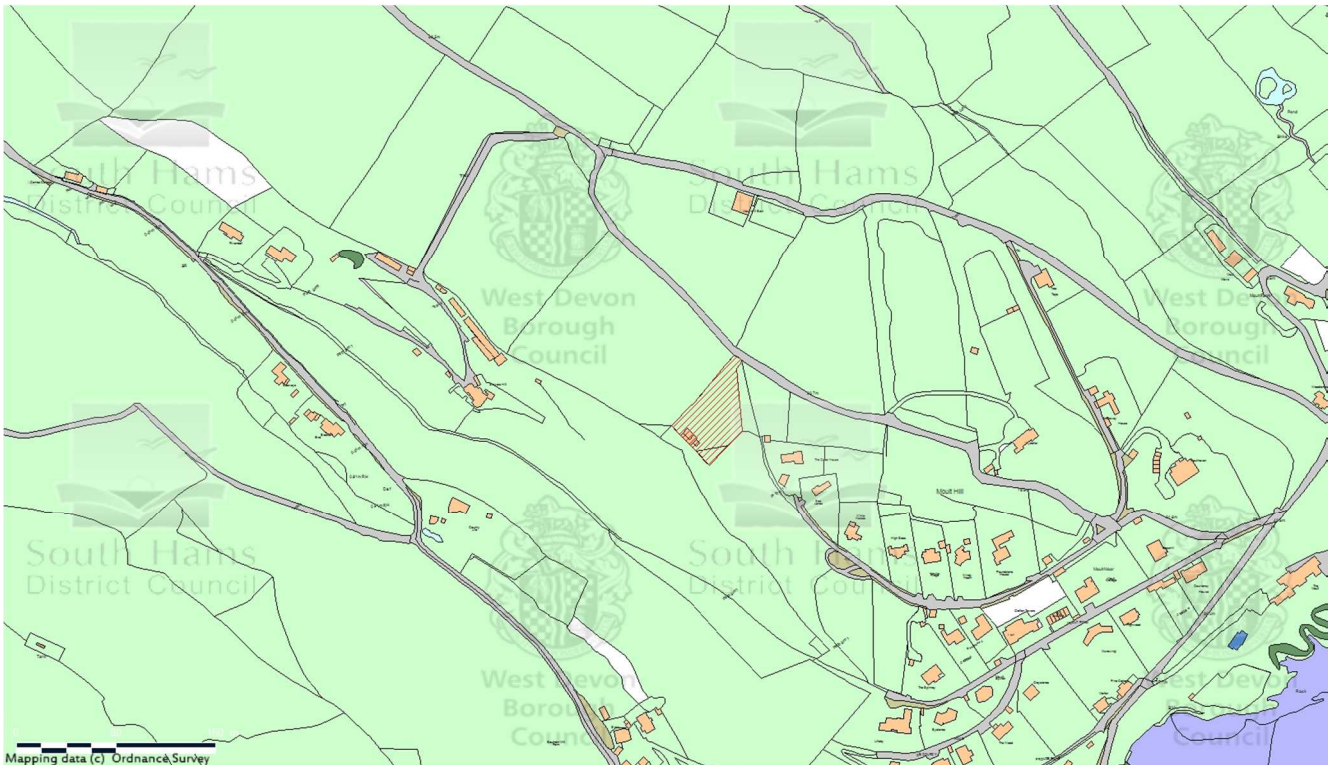
Applicant:

Mr Simon Greaves
The Cedar House
Moult Hill
Salcombe
TQ8 8LF

Site Address: The Cedar House, Moult Hill, Salcombe, Devon, TQ8 8LF

Development: READVERTISEMENT (Revised Plans Received & Amended Description)
Retrospective application for change of use of agricultural land and building to marshalling yard, parking and materials storage to service building works, revised access and landscaping

Reason item is being put before Committee: The application is reported to Committee for Members' consideration and ultimately decision, based on the very finely balanced nature of the pros and cons of this proposal. Issues surround the unavoidable adverse impacts on the character of the AONB (a designated landscape of national importance) [and in view of the duty on the Authority under S 85 to have regard to the purpose of conserving and enhancing the natural beauty of the AONB] and the benefits arising from the proposal, not only to those undertaking construction projects locally, but to the construction industry and the wider community of Salcombe from the reduced impacts of heavy construction vehicle traffic passing through the town, particularly during the busy summer period when local roads are particularly congested. The Town Council support a further two year temporary use, not permanent use. However, the landscape mitigation measures proposed are expensive and not viable for a two year permission. Nor does a two year permission address construction requirements into the future. Issues are subjective and so finely balanced, Members' decision is requested.



Recommendation: Grant conditional consent.

Conditions:

In accordance with plans
Not separated from and managed by occupiers of the dwelling; revert to agricultural use
Hours 9 – 5 Mon to Fri
Landscaping
Protection of trees/hedgerows
No repairs/ maintenance of machinery of vehicles
No external lighting unless approved;
Storage height limit;
No external storage beyond areas identified on approved plans and kept free for manoeuvring
No long-term skips/waste storage;
Within 3 months access for at least 10m into the site to be either concrete or tarmac and a lowered bullnose kerb installed
Remove permitted development rights
Restrict use rights

Key issues for consideration:

The key issues are considered to be:

Principle of Development/Sustainability: Development Plan and sustainability considerations surrounding development in the countryside and any wider benefits arising from the proposals;

Design/landscape: In particular AONB impacts issues, having regard to the great weight to be afforded to protecting nationally important landscapes;

Highways/access: Considerations, having regard to the site access constraints and highways safety issues, highways benefits arising from reducing heavy construction vehicle movements in and around Salcombe and PRow impact issues;

Neighbour amenity: Issues arising principally from potential noise and light pollution.

Site Description:

The site is situated to the south-west of the main settlement of Salcombe at the north-western edge of Moul Hill, accessed via the minor road from Plympton Cross to Moul Hill, which is a spur running south-east off Collaton Road as it leaves Malborough.

The site itself comprises an area of former agricultural land, circa 0.26 ha. (0.46 acres as measured on GIS) [0.33 ha. As stated in the Design & Access Statement] currently being used as a marshalling yard for storing construction materials and associated parking, with a former stable building used for the same storage purpose, sited towards the south western edge of the land. A hedge runs north-east to south-west effectively bisecting the site into two unequal parts. The lower part, with the shed, appears to have been used in the past in connection with the storage of equipment used in the applicant's landscape business, again on an unofficially unapproved basis. This may account for the different estimates of the timescales for how long the marshalling yard use has been on going, which range from 2 years to 16 years.

The site is close to the high point locally and rises slightly from the road, then falls away towards the south-west.

The nearest residential dwelling, The Cedar House, which is elevated slightly above the site, belongs to the applicants, with other detached dwellings located beyond to the south east (accessed via Moul

Hill). There are also other isolated properties to the north, west and east and further afield tourist caravan accommodation.

The site is located within the South Devon AONB, a landscape of designated national importance, Undeveloped Coast and Heritage Coast.

The agricultural land classification (ALC) is Grade 3 - good to moderate quality agricultural land.

Two Article 4 directions cover the land, ART4_27-06-57 removes permitted development rights to use land for certain uses for up to 28 days without requiring planning permission and ART4_03-07-72 removes some agricultural permitted development rights.

The site lies within the Cirl Bunting 2km buffer zone, an ecology designation to safeguard the breeding and feeding areas for this protected species.

Falconers is the nearest Grade II Listed Building, to the east on the lower side of Moulton Hill.

A Public Right of Way (PRoW) Salcombe Footpath 11 passes through the site and links the road to Moulton Hill and with footpaths 13 & 42 to the south.

Salcombe to Kingsbridge Estuary SSSI lies to the east.

Though a high point locally, there are views of higher ground in a number of directions from across this high rolling countryside and the site therefore has a degree of prominence and will be visible in many of those reverse views.

The Proposal:

The proposal, which has been re-advertised following receipt of revised plans and an amended description of development, seeks retrospective permission for the change of use of agricultural land and a building to a marshalling yard, parking and materials storage site, to service building construction works on this side of Salcombe. The plans also indicate revised access arrangements and additional landscaping, including bordering the PRoW which crosses the land.

The marshalling use involves using the site as a storage and transfer area for building and demolition materials from local building projects. Many redevelopment and refurbishment projects take place each year in Salcombe and access for delivery and construction vehicles is restricted by the nature of local roads. Large delivery vehicles passing through town cause congestion. This is a use which has operated without the benefit of planning permission for some time now (estimates vary from two years, to many more), based on the existing access and land and without any landscape screening or formal separation of the PRoW from the activities on site. In seeking to regularise the use, revisions to the access, for additional landscape screening (including as a buffer for the PRoW) and for dedicated areas for storage and parking/ turning are proposed in an attempt to satisfy highways safety concerns and for landscape visual amenity reasons, including wider AONB landscape impacts and impacts on the experience of users of the PRoW.

These issues are addressed in detail in the report below.

The use, though ostensibly a storage and distribution operation, and perhaps therefore possibly a Class B8 use, is somewhat rare, more usually associated and found in connection with the transfer and transportation of goods on railways (railway marshalling yards), but is considered likely to be classified a Sui Generis use, that is a use which is within a Use Class on its own. This has a bearing on suggested planning conditions for reasons explained in the report below.

Consultations:

- County Highways Authority: In response to the revised plans, note the site according to the Design and Access Statement has been in existence for 16 years as a marshalling yard albeit permitted under a temporary use permission. It is noted the site is used for storage of large machinery and also for bulky deliveries for local sites. It is argued having the yard in existence means that bulky deliveries can be separated and transported to local sites utilising smaller vehicles which are more suited to the local road conditions. The Highway Authority welcomes this noting the roads leading down to Start Bay and in Salcombe in general are not particularly wide. The Highway Authority would expect most bulky larger delivery vehicles travel to the site via the road directly linked to Malborough since this is the most suitable and it takes less time. This road varies in width but for the most part has several passing places, which are generally inter visible. They also are generally large enough for car drivers to pass heavy goods vehicles. Clearly on occasions some reversing may be necessary but in general the low levels of traffic on this road mean that there is likely to be minimal disruption.

Having regard to the history of the site the Highway Authority has checked the injury accident statistics for the last five years which have been reported to the Police. The results show no injury accidents on the roads leading to the site from either direction.

In conclusion the principle of the site as a builder's marshalling yard from a road safety perspective is deemed acceptable. It is considered that the evidence available coupled with the reasonable argument put forward mean that at appeal any highway objection would lack in substance.

Noting most drivers using the site will be in high level HGV seats sat at 2m height it is considered it would be overkill to form a visibility splay at the access since most drivers will be able to see over the hedge. Also having regard to the long use, low traffic levels and lack of accidents the Highway Authority would not wish to impose a requirement for splays. If however the Planning Authority disagrees with this then it is noted 85th percentile speeds are in the region of 25mph at the access so a visibility splay of 33m 'y' distance x 2.4m 'x' distance x 33m 'y' distance to the middle of the road (west) x 600mm height would be the prescribed splay in Manual for Streets 2007. A condition could be imposed should the Planning Authority deem a visibility splay is necessary. Also of note the public right of way near the entrance would be affected and a contribution of £1500 from the applicant would be required to amend the FP entrance and legal order for the Public Footpath. Any diversion of a public right of way (footpath or bridleway) will require consent direct from Devon County Council. If the proposed diversion will last for more than six months then this will require a reapplication (again direct from DCC). A link is provided for the applicants (see online for full details).

Finally should the Planning Authority consider the site to be acceptable in this location the Highway Authority would request the access as it adjoins the highway is hardened for at least 10m into the site using either concrete or tarmac. A lowered bullnose kerb should also be installed along the edge of the highway at the access to ensure the integrity of the public highway is retained and reduce the likelihood of stones/mud/debris being dragged onto the public highway.

- Salcombe Town Council: The two amendments on the plans were noted in that the footpath was reinstated in a straight form and the entrance splay widened for better visibility. Objection with regard to the permanent use change as it should remain a two year temporary permission as there was significant concern with regard to the highway use by 12m sized lorries travelling down the narrow Collaton Road from Malborough and the ongoing integrity of the Devon banks which would become damaged especially by the entrance to the site.

- SHDC Environmental Specialist:

	Comments	No objection	Objection	Conditions
Landscape Character			yes	
Visual Impact			yes	
Protected Landscape			yes	
Landscape Design	yes			

In considering this application and assessing potential impacts of the development proposal against nationally protected landscapes, in addition to the Development Plan, the following legislation, policies and guidance have been considered:

- Section 85 of the Countryside and Rights of Way (CRoW) Act;
- Section 11 of the NPPF in particular paragraphs; 109 and 114-116;
- The National Planning Practice Guidance (NPPG) particularly Section 8-001 to 8-006 on Landscape; and
- The South Devon AONB Management Plan and its Annexes.

In respect of the principle policy tests in the NPPF, this application is not considered to constitute “*major development*” in the context of paragraph 116, due to its scale and form, but there are considered to be detrimental effects on the landscape and environment of the AONB that should be given great weight in this planning balance.

Summary

Objection: The proposal has an unacceptable impact on the special landscape qualities of the South Devon AONB, failing to conserve the landscape character and visual amenity. This is considered to be contrary to the protected landscape policies and fails to conserve and enhance the natural beauty and special qualities of the South Devon AONB.

The proposal relies heavily upon a range of mitigation measures as detailed in the submitted landscape drawings (Site section and Plan – Rev B; July 2017). Given the coastal location this will be difficult to establish and maintain to a sufficient degree, and as a result, there would be an unacceptable residual level of harm to the South Devon AONB.

Landscape Character and Visual Impact

The application site is located to the south-west of Salcombe on a high ridge line between South and North Sands, within the South Devon AONB. The special qualities and natural beauty of the AONB are highly sensitive to change and adverse impacts that may arise from development.

Whilst it is acknowledged that the current use has been in place on a temporary basis over recent years, there is very specific concern over the permanent use of the site as a marshalling yard with associated activities and the resultant longer term impacts on the special qualities of the AONB. The baseline position has been adversely changed as a result, as noted through observation and activity within the site.

The current land use is agricultural, outside of the settlement boundary, in countryside. It is immediately adjacent to the Devon Character Area - *Bolt Tail and Start Point Coastal plateau*, and within the estuarine landscape of the *Salcombe and Kingsbridge Estuary*. It is recognised for its high scenic quality, within the undeveloped and heritage coast. It has a strong sense of place, derived from ‘...rounded slopes and dominant maritime influences.’ Also, ‘the area as a whole has a coastal character – exposed to salt laden winds, with the sounds of seabirds being strongly evocative. Views across and up and down the estuary are a defining feature...’ Officers believe the proposed use and activities associated with it will directly conflict with these special qualities.

The site is immediately adjacent to a public footpath, which integrates with a comprehensive network of associated public paths locally, recognised as highly sensitivity receptors, vulnerable to change and adverse impacts from vehicular movements and noise, activities that are associated with the proposed use. The site can be seen from Bolt Head on higher ground that looks down and across it, making mitigation difficult to successfully achieve the necessary outcomes to conserve the special qualities which include:

- Unspoilt and very exposed coastal skylines with views out to sea and inland down and across the Salcombe to Kingsbridge Estuary and to Dartmoor

- Sense of isolation, tranquillity and remoteness, enhanced by natural qualities of the coast and exposure to sea and limited car access
- Area valued for recreation and tourism and includes South West Coast Path.
- National Trust coastal ownership including Bolt Tail to Bolt Head...

Protected Landscape

Policies from the South Devon AONB Management plan that are particularly relevant to this proposal include:

Plan/P2 *Development management decisions will give great weight to the purpose of conserving and enhancing the natural beauty of the south Devon AONB; and support development that is appropriate and proportionate to its setting within or adjacent to the South Devon AONB*

Lan/P1 Character *The special qualities, distinctive character and key features of the South Devon AONB landscape will be conserved and enhanced.*

Lan/P4 Tranquillity

Levels of tranquillity throughout the South Devon AONB will be maintained and, where practicable enhanced, in order to ensure this special quality is not further devalued.

Lan/P5 Skylines and visual intrusion

The character of skylines and open views...within... the AONB will be protected. Priorities include...external lighting that creates night time scenic intrusion ...that are inconsistent with landscape character.

South Devon AONB Special Qualities

The AONB special qualities most pertinent to this application are considered to be:

- Iconic wide, unspoilt expansive panoramic views
- An ancient and intricate network of winding lanes, paths and recreational routes.
- Areas of high tranquillity, natural nightscapes, distinctive natural soundscapes and visible movement

Detailed Design / Landscape Design

The submitted scheme is noted and there is an acknowledgement of the intent to mitigate the anticipated adverse impacts of the proposed development. However, there is specific concern over the true extent proposals will successfully achieve the outcomes required in this highly sensitive, natural landscape.

Recommendation

Following a full and considered analysis of the proposed scheme, and in discussion with the SD AONB manager, officers remain of the view that the proposed development fails to conserve or enhance the landscape character, visual amenity and special qualities of the SD AONB and as a result raise an **objection**.

Reasons

Contrary to landscape policies CS09 and DP2, and emerging JLP landscape policies.

Representations:

Representations from Residents

4 comments have been received objecting and cover the following points, summarised as:

- Residential area and AONB; Over-dominance and AONB beauty marred by piles of rubble and building materials clearly visible from public vantage points;
- The appearance and nature of the activities are inappropriate; poses significant risk if permission is granted that the scale of activities will increase to the detriment of Moulton Hill in general;
- Existing site is already an "eyesore" viewed from the lane to Marlborough;
- Access for commercial vehicles up to 18T lorries and risk of much higher traffic generation poses significant highway safety issues on narrow lanes, especially with limited visibility, reversing vehicles, lack of passing places and given that the area is popular with local pedestrians and visiting walkers;
- Both the lane from Marlborough and Moulton Hill are single track and cannot cope with big vehicles;
- Activities presently taking place at the site are not restricted to the nature or timings quoted, work takes place at all hours and weekends; Noise levels are high from vehicles and machinery like grinding equipment;
- The site has a searchlight which swivels into nearby property at night creating disturbance;
- Buildings at the site already dominate the boundary and restrict light by overshadowing;
- Activities have already been taking place, unlawfully for over 2 years;
- Will result in further increased noise audible both inside and out;
- Light pollution at night;
- Problems for neighbouring access
- Overshadowing;
- Loss of privacy - including workers walking to and from construction sites
- Advertisement not sited to maximise visibility, where little footfall occurs;
- Highway condition has worsened with heavy traffic with potholes, flooding and mud issues due to the increased volume of traffic;
- Pollution from vehicles and machines;
- If used to serve properties on the other side of Salcombe, it could generate more traffic and congestion, not reduce it;
- Should be allowed only on a licensed site by site basis;
- Affect holiday making walkers and there is a potential impact on the local economy if traffic congestion and safety deters future walkers from staying in the area.

1 comment has been received in support and covers the following points, summarised as:

- Car parking provision for contractors allows car sharing to the site where they are working, avoiding congestion (helps rubbish collection etc.);
- Previous construction jobs caused construction traffic to completely block local roads and has benefitted past construction projects and would benefit future construction;
- None of the immediate neighbouring residential properties can actually see the field or its contents from their properties;
- Highway safety issues are improved by use of this field by contractors: larger vehicles park here to decant their goods on to either smaller vehicles or dumper trucks which then drive slowly and safely along the remaining lanes to their destination; Failure to have this field as an interim "loading/unloading" bay would result in much larger construction traffic blocking the hairpin bends on the single track road to and from South Sands; Benefits increase in summer when roads are congested with tourists, with associated delays for local residents trying to get to and from work, school and other commitments;
- There are no drainage or flooding issues;
- There is no loss of important open space or community facilities;
- No noise disturbance, smells, obtrusive lighting or other impacts on amenity, usual hours of operation are between 07.30 - 16.30 on weekdays only;
- No over-dominance, field is barely noticeable from the road, other than when passing the entrance to the field, hedgerows prevent any other view of the site;
- No overshadowing or loss of light to any nearby properties;
- If the current use is prevented, local walkers, bicycle users and even car users will be exposed to much more dangerous traffic than currently;

Relevant Planning History

9/41/1548/95/3 Erection of stable and field shelter for hay/straw Granted 12.10.1995 until 14.11.2005

41/1092/03/F Variation of condition (a) of permission 9/41/1548/95/3 to allow continued siting of stable and field shelter beyond 14th November 2005 Granted 18.7.2003 until 17.7.2013.

ANALYSIS

Principle of Development/Sustainability:

This use as it has operated has demonstrated that it benefits the rural economy by facilitating local construction projects. The applicants have offered their land and are understood to take a small remuneration in return, but are not dependent on it for their livelihood as a commercial business. They do not advertise, are approached and recommended by word of mouth and the marshalling yard serves a local function. It is considered to be largely self-policing in this regard, in that, if it is more convenient to use this site as a marshalling yard, it will be used, and if not, then it simply won't.

The benefits to the community are wider than for those directly involved. By reducing heavy traffic passing through the town, delays and congestion are reduced, to the benefit of all. This is particularly of benefit in the busy summer months, when tourist traffic is at its peak, and when building projects are in full-swing to take advantage of the best weather conditions.

It is though, development in the countryside and as such under Policy DP15, is assessed against the requirement for a countryside location and whether it meets the essential, small scale, and exceptional local development needs of a settlement which cannot be met within development boundaries. In this regard, the use has, on a temporary basis, met and continues to meet a continuing demand. Salcombe continues to be a focus for redevelopment and refurbishment proposals and there is no sign this is likely to abate in the near future. There would appear to be limited opportunities to locate such a proposal elsewhere, and not within the settlement boundary. As such, the proposal is considered to meet an exceptional local need and to require a countryside location which cannot be met within the settlement boundary. It would make use of an existing building within the site, although it is mostly open land, is close to the settlement it serves and does not prejudice a viable agricultural operation. The proposal does accord with Policy DP15 and as a conversion of the stables to ancillary storage for the marshalling facility, complies with Policy DP16, providing an economic re-use of the building.

As such, there are considered to be no significant sustainability concerns regarding the principle of development and benefits arise for the local community, which weighs in favour of the proposal in the planning balance. However, this is for the specific use as a local marshalling yard and, if approved, should be conditioned such that it is only this use (and no other) which is permitted and the land and buildings should revert to agricultural use if no longer required.

Design/Landscape:

The site lies within the South Devon AONB, heritage Coast and Undeveloped Coast. The application is assessed with regard to the potential impacts of the development on local character, including impacts on the AONB. The LPA has a duty under The Countryside & Rights of Way Act 2000 which provides a statutory framework for all policy, plan-making and decision-taking affecting the AONB by all public bodies, including local planning authorities and government agencies. Section 85(1) in particular is relevant to decision making in relation to the duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB

The site lies outside Salcombe Conservation Area and beyond the Conservation Area setting boundaries. There are no Listed Buildings or Ancient Monuments nearby whose setting could potentially be affected by the proposals and no significant heritage impacts are considered to arise.

Guidance in the NPPF requires great weight be afforded to conserving the landscape and scenic beauty of the AONB. Policies DP2 and CS9 address local character and visual amenity considerations. The LPA is required to take the necessary action to ensure that the natural beauty of the AONB is conserved and enhanced. The recently adopted South Devon AONB Partnership Planning Guidance for the South Devon AONB is a material consideration

Policies DP1 and CS7 require good design. Policy DP1 sets criteria for high quality design including the need to respect and respond to the South Hams character in terms of its settlements and landscape

New development should also be based on a good understanding of the context of the site, and contribute positively to its setting by enhancing the local character, taking account of built and natural features of the surrounding area and enhance views and skylines. Notwithstanding that the application has been revised in an attempt to better mitigate impacts through revised layout and improved screening, the proposal is considered to potentially be in conflict with the requirements of landscape protection policies CS9 and DP2 and equivalent emerging policies.

Policy CS7 requires development proposals to include and promote good design which respects local distinctiveness and the character of the site and its surroundings in order to protect and enhance the built and natural environment.

Policy CS9 affords great weight to the conservation and enhancement of the AONB. Para 6.21 advises South Hams is renowned for its high quality, scenically attractive landscape and coastline, much of which is designated AONB. For the reasons detailed below, conflicts are considered to arise.

Planning for the South Devon AONB: Planning Guidance Version 1 contains a number of Policies relevant to considerations aimed at safeguarding the natural beauty, tranquillity and character of the AONB. Policies LAN/P1 to LAN/P6 and Objectives LAN/02 and LAN/03 are particularly relevant.

Policy DP2 of the DPD seeks to safeguard landscape character and includes a number of criteria requiring development proposals to demonstrate how they conserve and/ or enhance the local landscape character.

Policy DEV24 of the emerging JLP addresses landscape character and requires developments conserve or enhance landscape, townscape and seascape character including through criteria aimed at ensuring developments respect scenic and visual quality, maintain an area's local distinctiveness, conserve and enhance views and be of high quality design.

Policy DEV27 of the emerging JLP seeks to safeguard nationally protected landscapes from inappropriate development through a number of criteria.

NPPF paragraph 115 advises Great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important.

The application land, prior to becoming a marshalling yard (on an unauthorised basis) was previously undeveloped agricultural land, with a former building converted to stable use on a temporary basis. As part of this wider undeveloped landscape at the edge of the settlement, its greenery and vegetation made a long-standing positive contribution to local townscape character. Lying within the AONB, landscape character is a vitally important consideration.

SHDC's landscape specialist advises the land is immediately adjacent to the Devon Character Area - *Bolt Tail and Start Point Coastal plateau*, and within the estuarine landscape of the *Salcombe and Kingsbridge Estuary*. It is recognised for its high scenic quality, within the undeveloped and heritage coast. It has a strong sense of place, derived from '...rounded slopes and dominant maritime influences.' The marshalling yard use and activities are considered to be in direct conflict with these special qualities.

The site is immediately adjacent to a public footpath, which integrates with a comprehensive network of associated public paths locally, recognised as highly sensitivity receptors, vulnerable to change and adverse impacts from vehicular movements and noise, activities that are associated with the proposed use. The site can be seen from Bolt Head on higher ground that looks down and across it, making mitigation difficult to successfully achieve the necessary outcomes to conserve the special qualities which include:

- Unspoilt and very exposed coastal skylines with views out to sea and inland down and across the Salcombe to Kingsbridge Estuary and to Dartmoor
- Sense of isolation, tranquillity and remoteness, enhanced by natural qualities of the coast and exposure to sea and limited car access
- Area valued for recreation and tourism and includes South West Coast Path.
- National Trust coastal ownership including Bolt Tail to Bolt Head

Having regard to the aims of the AONB Management Plan, a landscaping scheme has been devised to screen the site as far as practical, including notably from the PRow that crosses the site. However, the topography is such that the site cannot be completely effectively screened from views and while mitigation would help improve the current situation, negative landscape impacts are inevitable. Mitigation is more difficult to sustain in a coastal location such as this. These issues present particular problems for the LPA, being charged with the duty to conserve and enhance the natural beauty of the AONB.

The conclusion of landscape specialists, in consultation with AONB colleagues, is that notwithstanding the proposed screening mitigation measures, negative impacts inevitably arise. Having regard to the designation of this landscape as nationally important, this weighs heavily against the proposal in the planning balance.

Highways/Access:

The proposal has arisen as a result of the highly constrained nature of the local highway network, in particular within the built-up area of Salcombe. Due to the difficulties of servicing construction projects in the area, requests were made of the landowners to provide a marshalling facility for large vehicles to drop off materials for transportation by smaller vehicles more suited to the narrow local roads and which can enable vehicle-sharing or walking to work by contractors. This helps reduce the potential for congestion on local roads in the town, particularly important in summer when congestion peaks as a result of tourism traffic (and when building projects are simultaneously likely to be at their peak to take advantage of the better weather). It is clear there is a continuing local demand for this facility. This weighs significantly in favour of the application in the planning balance.

However, as well as positive highways impacts, there are negative highway impacts. While this site reduces heavy traffic using other approach routes, it correspondingly increases traffic on this local approach road and roads in the immediate vicinity of the site. Like many roads locally, the approach route is narrow, winding, with limited forward visibility in parts and limited passing places. The site does allow for vehicles to enter and leave in a forward gear, which is essential.

Some consultees consider the proposal increases danger to pedestrians from large vehicles. Others consider it improves safety for pedestrians, removing heavy vehicles from the narrower roads in the town. Devon County Highways ultimately raise no highways safety objections.

The use presently impacts on the quiet enjoyment of users of the PRow which passes alongside the site, which planting will help screen, but views and sounds from the site are unavoidable. Presently there is no separation of the use from the PRow and this is considered to be potentially dangerous to pedestrians as well as visually intrusive and detrimental to the quiet enjoyment of walkers.

The County Highways Authority notes the site has been in existence for some time as a marshalling yard and used for storage of large machinery and also for bulky deliveries for local sites allowing bulky deliveries to be separated and transported to local sites utilising smaller vehicles more suited to the local road conditions and welcomes this given the restricted nature of roads leading down to Start Bay and in Salcombe in general.

It is expected most bulky larger delivery vehicles travel to the site via the road directly linked to Marlborough since this is the most suitable and it takes less time. This road varies in width but has several passing places generally large enough for car drivers to pass heavy goods vehicles. Clearly on occasions some reversing may be necessary but in general the low levels of traffic on this road mean that there is likely to be minimal disruption.

There have been no injury accidents on the roads leading to the site from either direction in the last five years.

In highway terms, the Highways Authority concludes the principle of the site as a builder's marshalling yard is acceptable from a road safety perspective. Noting most drivers using the site will be in high level HGV seats sat at 2m height it is considered it would be overkill to form a visibility splay at the access since most drivers will be able to see over the hedge. Also having regard to the past operation, low traffic levels and lack of accidents, the Highway Authority would not wish to impose a requirement for splays (but if deemed a requirement should be 33m 'y' distance x 2.4m 'x' distance x 33m 'y' distance to the middle of the road (west) x 600mm height to accord with Manual for Streets 2007).

The entrance to the PRow is proposed to be revised as part of the access visibility improvements. While the Highway Authority do not require these visibility splay revisions for safety reasons, given the proximity of the entrance to the PRow, the revised access is supported.

The Highway Authority initially advised that the applicant could apply to DCC for a 6 month temporary diversion of the footpath under the Highways Act 1980 and requested a financial contribution towards the footpath diversion. However, they have since confirmed this process would only be used whilst construction works are carried out on site and the path reinstated on the original alignment at the end of the period, which is not the case here.

If a permanent diversion of the entrance of the footpath was proposed, a diversion under Section 257 (requiring a separate application to SHDC as the LPA, not DCC) would be required to enable development to take place in accordance with planning permission. While initially it was considered that an application under Section 257 for the diversion of the footpath would be required, after careful consideration, the alignment of the footpath is not changing, only the entrance stile being relocated further back along the existing alignment of the footpath. It will still be possible to access the footpath on the original alignment across the widened entrance to the site. As such, it is not considered that a section 257 application for the diversion of the footpath is required as the existing alignment can be maintained, albeit the surface under foot will change for the first short section. The applicant will need to fund the replacement/re-siting of the entrance stile further back along the footpath.

DCC advises a separate temporary closure application will be required to be submitted to DCC. An informative is suggested providing this advice to the applicants. This should include proviso for the relocated/new stile/gated entrance to the footpath.

There is an alternative solution to retain the existing access and footway intact. Devon highways are not insisting on the visibility splay alterations proposed from a highways safety perspective. If

retaining the existing access/ footpath entrance, this would involve an amendment to the submitted scheme. It does however offer Members/the applicants a potential alternative solution if deemed more appropriate.

If this application is to be approved, the Highway Authority request the access as it adjoins the highway is hardened for at least 10m into the site using either concrete or tarmac and a lowered bullnose kerb should also be installed along the edge of the highway at the access to ensure the integrity of the public highway is retained and reduce the likelihood of stones/mud/debris being dragged onto the public highway, to be secured by condition. This has implications for visual amenities, but impacts are localised.

Consultation responses refer to increased danger for local road users, including pedestrians, from traffic, including users of the PRow. Others refer to reduced danger for pedestrians as a result of fewer larger vehicles on local roads. Ultimately the Highways Authority raises no objections and there is a safe access solution, both as proposed and for an alternative, to retain the existing access if required. This weighs positively in the planning balance.

Neighbour Amenity:

As referred to above, views of and sounds from the site are unavoidable from the PRow passing the land. Screening proposals will improve impacts over current conditions.

The nearest neighbouring property The Cedar House belongs to the owners, with other dwellings fronting Moul Hill to the south-east being the nearest sensitive receptors not directly related to the application site. Of these, Sea Lanes is the closest, with the nearest part of its garden circa 60m from the nearest part of the application site. The proposal has given rise to objections from neighbours about amenity impacts, including from the nearest neighbours.

Though the use is low key and intermittent, dependent upon the volume of redevelopment projects locally, and involves large vehicles transporting and unloading/transporting building materials and vehicles turning and parking within the site. The use will at times generate noise from vehicles and the loading/unloading of building materials. Also there is potential for dust from vehicles and stored materials when they are moved. Security lighting and lights from vehicles during hours of darkness are another potential source of nuisance.

Policies and Guidance seek to safeguard residential amenities. Policy DP3: Residential Amenity advises development will be permitted provided it does not have an unacceptable impact on the living conditions of occupiers of nearby properties. Unacceptable impacts will be judged against the level of amenity generally accepted within the locality and could result from loss of privacy and overlooking, overbearing and dominant impact, loss of daylight or sunlight, noise or disturbance, odours or fumes.

Prior to the introduction of this use, the level of amenity generally locally was high and the area tranquil. The use has an impact in this regard.

Emerging JLP Policy DEV2 (1) Policy seeks to prevent harm from development proposals by limiting the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation.

Among the 12 core principles for sustainable development under NPPF paragraph 17, is that development proposals should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Planning Practice Guidance on Design (Para. 002) advises good design should consider amongst other things the impact of development on well-being.

While noise is likely to be audible at 60m, it is unlikely to be sufficiently prolonged or loud enough to result in nuisance or undue harm. Conditions can control hours of use and limit use to weekdays only.

Of greater concern is night-time security impacts, notably from lighting. Objections refer to a searchlight. Other security options exist including CCTV and infra-red security lighting. Details will be important, in terms of neighbour amenity impacts, but also the protection of dark skies and for biodiversity reasons.

The PRoW is closer and impacts on walkers more immediate. It is a relatively short section linking the access road serving the site with Moulton Hill. The tranquillity of walkers will occasionally be affected when the site is in use and, though to be screened, this will take time to take effect. An objection has been received on these impact grounds.

Impacts can be limited by hours of use, weekday use only and security lighting conditions.

It is considered that management from The Cedar House will provide an imperative to ensure activities are respectful of local amenities, which will provide an extra safeguard for neighbours and who will know where to go if issues do arise. The land should not be separated from The Cedar House for this reason (and for landscape protection reasons) and conditioned to this effect.

Impacts on the amenities of neighbouring occupiers, though limited together with impacts on walkers weigh negatively in the planning balance.

Other Matters:

Two Year Temporary permission: The Town Council recommend two years temporary permission. The applicants seek permanent permission. The use has operated for some time now and it is considered that the application should either be approved on a permanent basis or refused. The proposed mitigation works are costly and a temporary permission is not cost-effective/viable by the applicants and this is understandable.

Safety and security/ Site management/ Lighting: There are concerns about site security and visual impacts from security measures, notably external lighting. It would not be acceptable for unsightly security fencing given the landscape sensitivity and having regard to levels of tranquillity and dark skies, lighting impacts, for example from security lighting, gives rise to similar concerns.

The present advantage is that the site is owned and managed by the current owners of The Cedar House adjacent to the site. Because the site can be seen and heard from The Cedar House, security requirements are minimal. This would not necessarily be the case if the land/use were separated from the ownership of and management from The Cedar House. Potential future separation could give rise to additional security concerns/requirements which could have further impacts on AONB character.

For this reason, conditions about management and lighting controls are considered necessary. Also, rather than the temporary permission recommended by the Town Council, linking the business to the residential use of The Cedar House by condition, to prevent separation and maintain current management and security arrangements, is considered the best way to minimise the need for unsightly security such as fencing and for obtrusive lighting.

Because this use has particular identified benefits for the local community, it is considered that if the use is to be permitted, it should be restricted to the one specified and not for any other purposes, as it is recommended only as a result of the direct community benefits arising. There would be concerns about future intensification of a general B8 storage and distribution use and being the only commercial use in the vicinity, involves a pattern of movement and activity at odds with the location and rural character. A condition is recommended limiting the use to this use only, and also that it should not be separated from The Cedar House for reasons referred to above and should revert to agricultural use in the event the use ceases or becomes separated from The Cedar House. This would also minimise the potential for an escalation of impacts in the future, which, from discussions, is among the concerns of landscape specialists.

Ecology & Biodiversity: Potential for nesting bird habitat exists in the hedgerows and the site is within the Cirl Bunting 2km buffer zone. Areas of the site would be remodelled and screen planting is proposed. Open land does not provide the optimum habitat, but the bordering hedgerows provide potential nesting and feeding sites. These would be retained and additional planting could result in a small biodiversity gain, to off-set the harm arising from noise and light pollution.

NPPF paragraph 115 advises the conservation of wildlife is important in the AONB. Local Plan and emerging JLP Policies reflect these aims. Linked green spaces are important in this regard. The use will not interrupt linked green spaces. Impacts on ecology and biodiversity are considered to be limited and localised, no undue harm would arise to the feeding habitat of Cirl Buntings, no harm to the neighbouring SSSI is considered likely to arise and issues and impacts are not considered to be significant or weigh heavily in the planning balance.

Impact on Devon Banks: This issue was raised as a concern by the Town Council. Large vehicles can use roads on an unrestricted basis. While there is no evidence of damage, the potential does exist, but this same potential exists if the lorries use other roads. In the circumstances, traffic levels are not high, the site does have a limited capacity and no objections are raised on these grounds.

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

Planning Policy

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
DP6 Historic Environment
DP7 Transport, Access & Parking
DP15 Development in the Countryside
DP16 Conversion and Reuse of Existing Buildings in the Countryside

South Hams Local Plan

SHDC 1 Development Boundaries
KP 7 Employment Development in Salcombe
KP 11 Environment in Salcombe

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

SPT3 Provision for new homes

SPT4 Provision for employment floorspace

SPT9 Strategic principles for transport planning and strategy

SPT10 Balanced transport strategy for growth and healthy and sustainable communities

SPT11 Strategic approach to the natural environment

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV30 Empowering local residents to create strong and sustainable communities

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV15 Supporting the rural economy

DEV20 Place shaping and the quality of the built environment

DEV21 Conserving the historic environment

DEV24 Landscape character

DEV25 Undeveloped coast

DEV27 Nationally protected landscapes

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV29 Green and play spaces (including Strategic Green Spaces, Local Green Spaces and undesignated green spaces)

DEV30 Trees, woodlands and hedgerows

DEV31 Specific provisions relating to transport

DEV37 Managing flood risk and Water Quality Impacts

DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

NPPF

National Planning Practice Guidance

The recently adopted Planning for the South Devon AONB: Planning Guidance Version 1 is a relevant Supplementary Planning Document (SPD).

Summary/Conclusions/Planning Balance

The proposal seeks retrospective planning permission for use as a marshalling yard to service local building projects. The use has evolved out of necessity due to local circumstances, with local road access for construction delivery vehicles severely constrained. If using the main approach road to Salcombe to access development sites to the south-western part of the town, heavy delivery vehicles have to pass through town, causing delays and contributing to congestion. This is a problem in particular in summer when roads are more heavily congested from construction traffic.

There is no doubt as to the benefits of the use, easing the construction process, benefitting owners and building contractors and easing congestion on busy town roads to the benefit of the wider community of Salcombe. There are no known available alternative sites either within the settlement boundary or nearby outside of it and it is accepted therefore that this is the only currently available site to fulfil this unique function. However, the whole of the area is within the South Devon AONB, Undeveloped Coast and Heritage Coast and is a sensitive landscape of national importance, afforded the highest level of protection. It is appreciated that being the only commercial use in the vicinity, patterns of movement and activity are at odds with the location and rural character.

Overall, there are considered to be limited adverse amenity impacts and limited biodiversity impacts which can be mitigated and which do not weigh heavily negatively in the planning balance compared to the weight afforded to the positive benefits arising from the use. There are adverse landscape impacts from a sometimes unsightly storage use in a countryside location and the great weight to be afforded to protecting against adverse landscape impacts weighs negatively in the planning balance.

SHDC's landscape specialist, in consultation with AONB colleagues, conclude the negative impacts are such that the proposal cannot be supported in landscape terms. This is entirely understandable from a landscape perspective and there is no disagreement as to impacts. While screening would improve current conditions, and is more difficult to establish and maintain in a coastal setting, it would not negate impacts. The applicant has a landscape contracting business and therefore has great experience in landscape mitigation, which is reassuring.

It would appear that the use has evolved out of local need, and that there is no apparent alternative location. Alternative sites are potentially limited as there is nowhere within the settlement boundary and only limited land nearby which could fulfil the same local function, none of which is known to be available.

Ultimately, it is considered that the use provides benefit for the community of Salcombe, freeing up local roads and easing congestion, particularly during peak summer periods. The intensity of the use varies depending on the number and scale of construction projects locally and whether owners/contractors see the use of the site as beneficial in their individual circumstances.

In other circumstances, where an alternative location for a proposed use were a possibility, it is considered the AONB impacts would be overriding, such that an alternative use of the land would be unlikely to be supported.

However, in the current circumstances where this is the only realistic site to fulfil the purpose, the choice is a stark yet simple one, refuse and accept the increased impacts from construction traffic on the amenities and traffic of Salcombe or allow the development with the associated landscape impacts.

Having regard to the Town Council's suggested two year temporary permission, no landscape mitigation would be affordable/viable. Nor would it address the long term issues associated with construction traffic locally.

Considering the weight to be afforded to conserving the natural beauty of the AONB, this is an extremely finely balanced decision.

Ultimately, while fully acknowledging the importance of the landscape and the concerns of landscape specialists, given the benefits of the use and the mitigation measure proposed to limit impacts, combined with an absence of alternatives and the increased impacts from construction traffic in the event of a refusal, subject to the safeguarding conditions proposed, on balance, approval is recommended. However, it is fully accepted that this is a subjective judgement and in view of the duty on the Authority under S 85 to have regard to the purpose of conserving and enhancing the natural beauty of the AONB, issues are so finely balanced that the application is reported to Committee for Members' consideration.

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 In Full

1. The development hereby approved shall in all respects accord strictly with drawing numbers: CO 00, CO 01 Rev B, CO 03 Rev A and CO 02 Rev B received by the Local Planning Authority on 18.10.2018.

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. This permission is personal to the current/successive owners/occupiers of The Cedar House during their ownership/occupation and the land shall not be separated from/sold independently of the ownership/occupation of The Cedar House and the use shall at all times be managed by the owners/occupiers of The Cedar House. In the event the land and buildings are sold/ separated from the ownership/occupation of/management from The Cedar House the use shall be discontinued and the land and building revert to agricultural use.

Reason: The use is dependent upon and permitted in the circumstances of the management and security afforded by the close proximity of The Cedar House to safeguard the character, visual amenity and other amenities of neighbouring occupiers and the area generally.

3. The premises shall not be used/open outside the hours of 0900 to 1700 weekdays only. There shall be no Sunday or Bank Holiday use/working.

Reason: To safeguard the residential amenities of neighbouring occupiers and to safeguard the tranquillity of the area generally, an AONB and landscape of national importance.

4. The details of landscaping hereby approved shall be fully implemented in the planting season following the decision and the plants shall be protected, maintained and replaced as necessary to the reasonable satisfaction of the Local Planning Authority for a minimum period of five years following the date of the completion of the planting.

Reason: In the interest of visual amenity and landscape in order to protect and enhance the amenities of the site and locality, an AONB and landscape of national importance.

5. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees and hedgerows as shown on the plans, including their root systems, or other planting to be retained as part of the landscaping scheme, by adopting the following:

- (i) All trees to be preserved should be marked on site and protected during any operations on site by a fence.
- (ii) No fires shall be lit within the spread of the branches of the trees
- (iii) No materials or equipment shall be stored within the spread of the branches of the trees
- (iv) Any damage to the trees shall be treated with an appropriate preservative.
- (v) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated, except in accordance with details shown on the approved plans.

Reason: To protect the existing trees and hedgerows in order to enhance the amenities of the site and locality, an AONB and landscape of national importance.

6. No repairs/ maintenance of machinery or vehicles shall take place on the land or within the building at any time.

Reason: In the interest of the amenities of nearby residents, walkers and the character of the site and locality generally, an AONB and landscape of national importance.

7. Notwithstanding the details provided, there shall be no external lighting unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the countryside and neighbouring occupiers from intrusive development and to safeguard dark skies and the natural beauty of the AONB.

8. No external storage shall take place above the height of 2.5m above ground level.

Reason: In the interest of visual amenity and landscape in order to protect and enhance the amenities of the site and locality, an AONB and landscape of national importance.

9. The access, circulation, parking and storage areas shown on the plans shall be laid out and available within three months following the date of this permission and thereafter shall be retained, maintained as such and the turning areas kept free for manoeuvring and the parking areas made available for parking ancillary to the use of the land only.

Reason: In the interests of highways safety and in order to protect the amenities of the site and locality, an AONB and landscape of national importance.

10. No long-term skips/waste storage shall take place on the site and all waste materials and skips shall be removed from the site within 14 days if requested by the local planning authority.

Reason: To ensure the land is used principally as a materials marshalling yard in the interests of the amenities of nearby occupiers, users of the public footpath and in order to protect the amenities of the site and locality, an AONB and landscape of national importance.

11. Within three months following the date of this permission, access for the first 10m leading into the site shall be hardsurfaced with either concrete or tarmac, together with appropriate drainage to avoid run-off onto the highway and a lowered bullnose kerb installed to the satisfaction of the local planning authority.

Reason: In the interests of highways safety.

12. Notwithstanding the provisions of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended) (or any Order revoking, re-enacting, or further

amending that Order), no gate, fence, wall or other means of enclosure shall be erected or constructed unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the amenities of the site and locality, an AONB and landscape of national importance.

13. The proposed land/building shall be used as a marshalling yard, associated parking and for materials storage to service building works and for no other purpose including any use within Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To safeguard the residential amenities of neighbouring occupiers from possible effects of dust/smell/effluvia and to safeguard the tranquillity of the area generally, an AONB and landscape of national importance.

Informatives:

1. This authority has a proactive approach to the delivery of development. Early pre application engagement is always encouraged. In accordance with Article 35(2) of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended) in determining this application, the Local Planning Authority has endeavoured to work proactively and positively with the applicant, in line with National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed.

2. The responsibility for ensuring compliance with the terms of the approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details can render the development unauthorised and vulnerable to enforcement action.

3. If your decision requires the discharge of conditions then you must submit an application for each request to discharge these conditions. The current fee chargeable by the Local Planning Authority is £116 per request. Application forms are available on the Council's website.

4. The applicant is advised that while the proposal is not considered to involve the diversion of the designated PRow that runs through the site, the new access/visibility splay requirements will necessitate the removal and relocation/re-provision of the PRow stile/gate entrance further back along the existing alignment. This would need to be undertaken at the applicant's expense with the approval of Devon County Council.

As it will not be possible for the adjacent public right of way to remain available and unobstructed during the construction of the development, a formal application for a temporary closure order will also need to be made to Devon County Council, for which a fee is payable: see link below for application forms/guidance:

<https://new.devon.gov.uk/prow/change-rights-of-way/>

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PLANNING APPLICATION REPORT

Case Officer: Wendy Ormsby
Yealmpton

Parish: Newton and Noss **Ward:** Newton and

Application No: 2929/17/VAR

Agent/Applicant:
Mr R Smith
Suite 1
Modbury House Unit 10
New Mills Industrial Estate
PL21 0TP

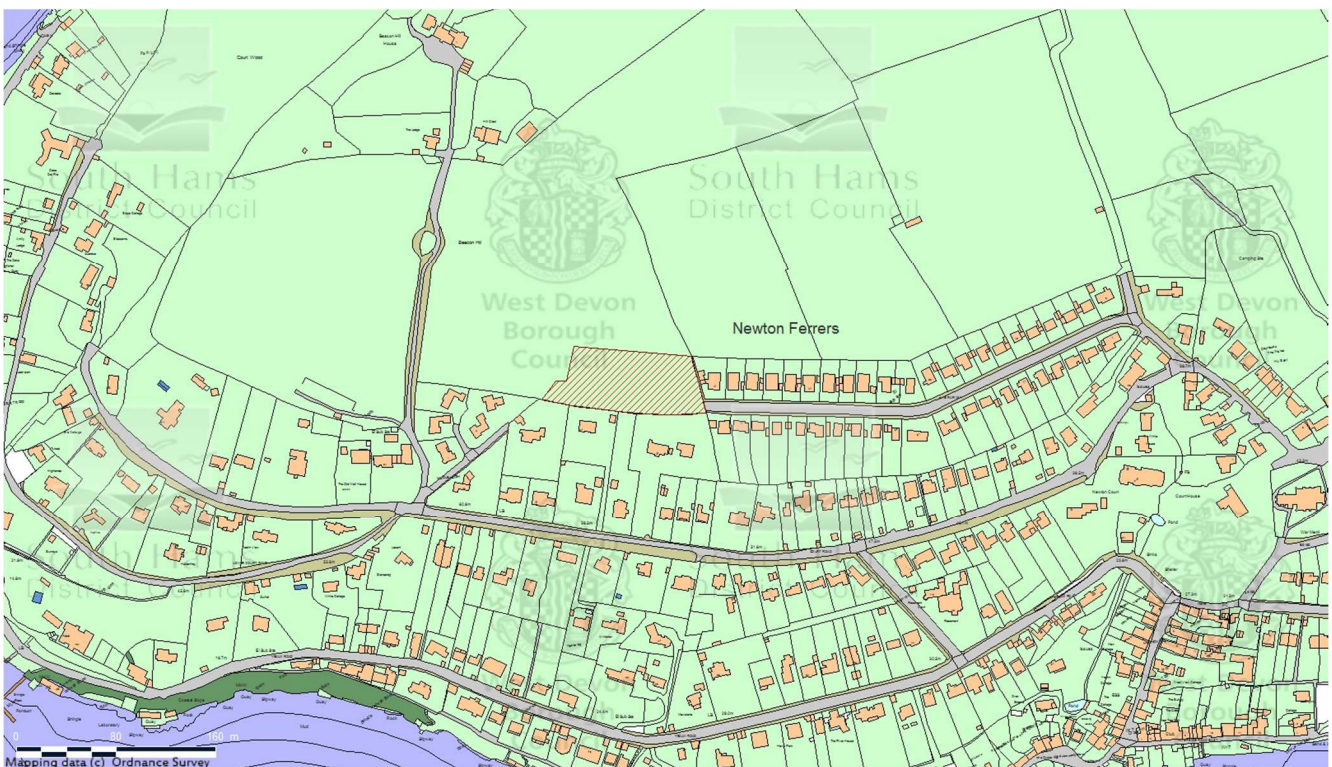
Applicant:
Mr Dean Scantlebury
27 Furzehatt Road
Plymouth
PL9 8QX

Site Address: Land At The Fairway, The Fairway, Newton Ferrers, PL8 1DP

Development: Variation of condition number 2 following grant of planning permission 1372/16/FUL to allow for changes to plans of plots 1 and 2

Reason item is being put before Committee: At the request of Cllr Baldry for the following reasons:

- Visual impact
- Increased ridge height
- Inconsistent with the reasons in the original consent
- The proposal for elderly person and disabled person dwellings influenced the original consent.
- Likely increase in road traffic from change of dwelling type.



Recommendation: Conditional Approval subject to a Deed of Variation to the Section 106 agreement pertaining to planning reference 1372/16/FUL to ensure the provision of the following:

- Education Infrastructure - £13,680
- Education Transport - £3,097
- Improvements to open space, sport and recreation facilities at Butts Park, Newton Ferrers. - £19,500
- Management Company to secure implementation of LEMP which will secure hedgerow management.
- Highway drainage schedule of works to be agreed and implemented

Conditions

1. Time
2. Accords with plans
3. Details of levels to be provided and agreed
4. Details of surface water drainage to be submitted to and approved in writing by the LPA
5. Recommendations on Extended Phase 1 Habitat Survey and Ecological Appraisal to be adhered to.
6. No external lighting unless details previously agreed with LPA
7. Requirement for heavy metal soil sampling
8. Unsuspected contamination
9. Pre-commencement - Construction Management Plan
10. East facing dormer windows to be obscure glazed and fixed shut.
11. Materials to be agreed
12. Hard and soft landscaping to be agreed and implemented
13. Tree and hedgerow protection measures during construction to be agreed
14. Details of any retaining walls to be agreed
15. Construction details of estate road, footways, verges etc to be agreed and provided.
16. Removal of PD – roof extensions and means of enclosure
17. Pre-commencement – LEMP
18. Highway, parking and turning to be laid out prior to occupation
19. All off site highway improvement works shall be complete prior to the occupation of the first dwelling
20. No mud, stones, water or debris shall be deposited on the public highway
21. Screening to be provided on eastern site boundary of plot 1.

Key issues for consideration:

The principle of the development has already be accepted in the granting of planning permission 1372/16/FUL

The site is located within the South Devon Area of Outstanding Natural Beauty (AONB) and Heritage Coast. Paragraph 115 of the NPPF states that great weight should be given to conserving landscape and scenic beauty in these areas. South Hams Local Development Framework (LDF) Policies CS9 (Landscape and Historic Environment) and DP2 (Landscape Character) also give great weight to the conservation and enhancement of AONB's. This is the leading issue in the consideration of this application.

Financial Implications (Potential New Homes Bonus for major applications):

It is estimated that this development has the potential to attract New Homes Bonus of **£5,900** per annum. The Government is implementing reforms to the New Homes Bonus scheme and the length of NHB payments will be reduced from 6 years to 5 years in 2017/18 and 4 years from 2018-19 onwards. Members are advised that this is provided on an information basis only and is not a material planning consideration in the determination of this application.

Site Description:

The site subject to the original planning consent is the lower south east corner of an agricultural field that adjoins the west end of The Fairway, a residential road of mostly bungalows located on the northern boundary of Newton Ferrers. Access to The Fairway is via Court Road.

The site is a rectangular parcel of land that is 0.47 hectares in size. The site is outside of the Development Boundary but immediately adjoins it. The site is also within the South Devon Area of Outstanding Natural Beauty and the South Devon Heritage Coast.

The southern site boundary adjoins the rear gardens of properties on Court Road and Middle Leigh. This boundary is defined by a mature hedge and some trees. Two trees close to the common boundary, in the garden of 80 Court Road, are subject to Tree Preservation Orders. The eastern boundary with The Fairway is defined by a field gate and a mature hedge. The dwellings on Court Road are set at a lower level than the application site due to the topography of the land which slopes downwards from north to south

There is a second field access gate, this one is on the south site boundary, opening into Middle Leigh.

This application to vary the original approval relates to plots 1 and 2 only which are the plots at the eastern end of the site, closest to The Fairway.

The Proposal:

It is proposed to vary the details of plots 1 and 2 from the approved plans.

The ground floor footprint of the building will remain the same, but both will change to reverse living with living accommodation on the first floor. The location of windows and doors at ground level are changed. The first floor footprint will extend further to the rear (north). As the land is sloping the first floor will open onto the garden level at the rear

When this variation application was originally submitted the most significant change was to the roof. The approved dwellings were dormer bungalows. The buildings were approved with fully hipped roofs with pitched roof dormers to the front and rear and flat roof dormers to the sides. The dormers were relatively modest in scale. The front (south) facing dormer included a balcony inset into the roof with a pair of full height glazed doors opening onto the balcony.

The proposed changes originally included the following changes:

Widening the inset window with doors on the front elevation to more than double the amount of approved glazing.

Adding a much larger side flat roofed 'dormer' on the east elevation that appeared more as a small tower on the side extending beyond the main part of the dwelling and reaching down to ground level, this would be clad in standing seam grey metal and would contain a large window.

The dormer on the west side is extended out further, almost reaching the eaves of the roof. This is retained as flat roofed.

Following objections on landscape grounds from SHDC Officers and the AONB Unit the application was amended. The scheme now includes the following changes:

A wider expanse of window and wider balcony at the front – glazing has been reduced from the original submission by substituting solid panels on either side.

There is no 'tower' feature anymore. Instead both side facing dormers remain at the same height as the approved scheme however are longer, extending further out along the roof slope. They will be timber clad rather than metal clad. Whilst they will appear as dormers from the front these are not actually dormers, they form part of a flat roof addition to the entire back part of the roof.

The first floor will extend further to the rear (north) than previously approved (within the roof extension mentioned above) and will introduce side facing windows further back into the plot. The side facing window on plot 1 is to be obscure glazed. The first floor will open out onto a terrace on the garden which is at first floor level at the rear.

The ridge height of the dwellings will be 500mm higher than the approved scheme. The dwelling will be of same footprint width and have the same width of eaves, it will be some 4.5m deeper, cut into the slope of the land at the rear.

Consultations:

- County Highways Authority: Standing advice
- AONB Unit: No objection to revised plans
- Parish Council: Objection

Whilst acknowledging that the principle of development outside the development boundary was established 1372/16/FUL contrary to public evidence and N3P-1, this application is:

- Inconsistent with the undertakings of the original consent when GREAT WEIGHT was given to the fact that the buildings with just one room on the roof were particularly suitable for the elderly and disabled.
- Bearing in mind there are 5 properties on this site, allowing any variations to ANY one of the buildings for which permission has already been granted will exacerbate the effect on the AONB and Coastal Preservation Area
- An increase in accommodation/family size will inevitably produce more parking and traffic
- Visual impact – increase in height on the skyline and effect on adjacent properties

- The proposed changes are out of context with the original buildings proposed under 1372/16/FUL and the established bungalows along The Fairway.

-

The original plans agreed for this site should stand

Representations:

Approx.6 letters of objection have been received which include the following reasons:

- Inconsistent with undertakings of the original consent
- Contrary to neighbourhood plan
- Outside of development boundary
- Not an identified site in JLP
- Adverse impact on AONB and Coastal Preservation Area
- Contrary to AONB Management Plan
- Highly visible in the landscape
- Increase in traffic – adverse impact on highway safety
- Adverse impact on Yealm Estuary SSSI
- Adverse impact on ecology including bats
- Driveway size with increase run off and risk of flooding.

Approx. 13 letters of support have been received, one of which contains approx. 25 signatures. Reasons for support include the following:

- Site already has planning consent
- No greater impact than consented scheme
- Buyers are young families with different needs to consented homes
- Will be occupied by local families – accords with aims of Neighbourhood Plan.
- Design and scale is appropriate
- Sustainable form of construction
- Acceptable impact on neighbours
- Site is well screened

Relevant Planning History

1372/16/FUL- Construction of 5 no DDA complaint dwellings and change of use of land
Conditional Approved subject to Section 106

ANALYSIS

Principle of Development/Sustainability:

Planning permission 1372/16/FUL established the principle of residential development on this site. The planning balance was influenced by the fact that the LPA did not have a 5 year housing land supply that it could yet reply upon and therefore the presumption in favour of

sustainable development, as set out in Paragraphs 49 and 14 of the NPPF, applied. This situation has not changed.

One of the benefits of the scheme which weighed in the planning balance of social sustainability was that the application proposed houses which were suitable for the elderly. Plots 1 and 2 being bungalows with just one room in the roof were particularly suitable for the elderly.

The variations proposed for plots 1 and 2 change the dwellings from modest mostly single level 3 bedroom dwellings to larger 3 bed properties on two floors accessed conventionally using stairs. These are more likely to be used as family homes and indeed the application identifies that two local families would like these plots if permitted.

The Newton and Noss Neighbourhood Plan is at a relatively advanced stage having been submitted for examination.

The neighbourhood plan identifies the need for smaller 1, 2 and 3 bed properties to balance out the trend of large, very expensive homes that exist within the Parish and for which there is a continued pressure to build but which are not affordable to many locals within the Parish.

Policy N3P-11 from the neighbourhood plan states the following:

Where residential development is permitted by this plan:

- a) In order to balance housing stock across the parish the development of smaller homes will be encouraged.*
- b) Applications for new dwellings and replacement dwellings of more than 3 bedrooms will be required to provide evidence of need.*
- c) In new developments of 4 or more homes, developers will be encouraged to have at least 75% smaller units of no more than 3 bedrooms.*
- d) Affordable Homes and financial contributions towards their provision will be required in line with the Joint Local Plan and national policies.*
- e) Proposals for small scale affordable housing schemes on rural exception sites will be supported where:
 - i. they meet the requirements of national and local strategic policies and the other policies of this plan.*
 - ii. they are brought forward by a local community group such as a Community Land Trust and have the clear support of the local community.*
 - iii. they are well managed and viable over the long term and the benefits will be retained for the local community in perpetuity.**
- f) Proposals for self-build, small family homes will be supported.*

The proposed changes to plots 1 and 2 provide 3 bed family homes rather than the smaller 3 bed dormer bungalows previously approved. Whilst bigger the houses are not unusually large and do not offer much more space than may be found in a conventional estate type development. It is considered that the proposed development is in accordance with Policy N3P-11 despite the fact the bungalows are no longer proposed.

The principle of the development is considered to be acceptable subject to all other material planning considerations.

Design/Landscape:

The site is located within the AONB where great weight must be given to conserving its scenic beauty. The key potential viewpoints of this development are from the south.

In considering the approved scheme weight was given to the fact that the proposed dwellings were dormer bungalows and therefore with low ridge lines, set towards to bottom of the field and set behind existing mature hedgerow and trees. On this basis it was concluded that the landscape impact would be minimal.

Viewed from the south the key changes to the development will be an increase in the height of the ridge line by 500mm, wider dormers/roof extension adding to the bulk of the roof and additional glazing within the gable.

The scheme has been assessed by the Council's landscape specialist and the AONB Unit who have concluded that the proposed changes will not materially change the landscape impact of the development.

The design as amended will sit comfortably within the street scene.

The design and landscape impact are considered to be acceptable.

Neighbour Amenity:

It is proposed that the east facing first floor window in Plot 1 be obscure glazed to prevent overlooking of the existing neighbour. It is also proposed to add a planning condition requiring a privacy screen to be provided on the eastern boundary of the rear patio of plot 1 where there is also the potential for overlooking, unless it can be demonstrated that overlooking will not occur.

Subject to the above, impact on neighbour amenity is considered to be acceptable.

Highways/Access:

There is no significant change to access and parking arrangements and no objection is raised by the Highway Authority.

Concern has been raised that these large 3 bed houses will generate more traffic than the smaller 3 bed bungalows. Officers consider that this is un an unreasonable assumption, but if there were a greater number of traffic movements the impact would be insignificant and acceptable.

Planning Balance

Whilst the proposed dwellings will be larger than originally approved they remain 3 bedroom and whilst spacious remain reasonably modest in size. As such they do not conflict with the aims of the Neighbourhood Plan in terms of house type and scale.

Having regard to the status of the District's 5 year housing land supply the NPPF advises that sustainable housing development should be approved. The proposed development represents sustainable development and as such it is recommended that conditional planning permission be granted.

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

Planning Policy

National Planning Policy Framework

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.

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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

TTV29 Site allocations in the Smaller Towns and Key Villages

TTV30 Empowering local residents to create strong and sustainable communities

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV3 Sport and recreation

DEV4 Playing pitches

DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area

DEV9 Accessible housing

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV24 Landscape character

DEV27 Nationally protected landscapes

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV29 Green and play spaces (including Strategic Green Spaces, Local Green Spaces and undesignated green spaces)

DEV30 Trees, woodlands and hedgerows

DEV31 Specific provisions relating to transport

DEV34 Delivering low carbon development

DEV35 Renewable and low carbon energy (including heat)

DEV37 Managing flood risk and Water Quality Impacts

South Devon AONB Management Plan

Newton and Noss Neighbourhood Plan – post Reg 16, submitted for inspection.

N3P-1: The Village Settlement Boundaries

N3P-4: Development and Construction

N3P- 5: Movement and Parking

N3P-9: Protecting the Landscape

N3P-11: New Housing

N3P-12: Second Homes and Principal Residence Requirement

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 3 April 2020, which is the date of expiration of planning permission 1372/16/FUL which this application varies.

Reason: To comply with Section 73 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:

GJ/PA/00
GG/PA/02A
GG/PA/03A
S2855/20
S2855/10
S2855/25
SK10 A
SH00 A
SK01 D
SK03 D
SK05 C
SK04 C
SK02 D
SK06 D
SK07 C

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. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

4. The dwellings/buildings hereby approved shall not be occupied until the parking, servicing, garaging areas relating to/it them (and shown on the submitted drawings) (and in accordance with drawings that shall have been previously submitted to and approved by the Local Planning Authority) have been properly consolidated, surfaced, laid out and constructed. The

parking, servicing and garaging areas shall be kept permanently available for the parking and manoeuvring of motor vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and satisfactory provision is made for the garaging and parking of vehicles clear of all carriageways in the interests of road safety and amenity.

5. No development above slab level shall continue until a detailed hard and soft landscaping scheme has been submitted to and approved by the Local Planning Authority, which shall include details of the boundary treatment of the proposed plots/development. The scheme submitted shall be fully implemented in the planting season following the completion of the development and the plants shall be protected, maintained and replaced as necessary for a minimum period of five years following the date of the completion of the planting.

Reason: In the interest of visual amenity in order to protect and enhance the amenities of the site and locality.

6. The recommendations, mitigation and enhancement measures of the Extended Phase 1 Habitat Survey and Ecological Appraisal by The Magnificent Science Company dated 8 September 2016, submitted in support of application reference 1372/16/FUL shall be fully implemented prior to the commencement of the development hereby approved and adhered to at all times. In the event that it is not possible to do so all work shall immediately cease and not recommence until such time as an alternative strategy has been agreed in writing with the local planning authority.

Reason: To safeguard the interests of protected species

7. Prior to their installation details and 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.

8. Notwithstanding the details provided, there shall be no external lighting unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the countryside from intrusive development

9. The first floor east facing window in plot 1 shall be obscure glazed, non-opening and permanently retained as such

Reason: In the interests of the residential amenities of the adjoining occupiers.

10. Prior to the commencement of development details of finished floor levels, ridge heights and cross sections through each dwelling to show the relative level of gardens, dwellings, parking areas and the new road shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is set at a level that ensures it is assimilated into the landscape to minimise the visual impact on the AONB in which it is set.

11. PRE COMMENCEMENT: No development approved by this permission shall be commenced until full details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- (a) details of the drainage during the construction phase;
- (b) details of the final drainage scheme, including testing and calculations;
- (c) provision for exceedance pathways and overland flow routes;
- (d) a timetable for construction;
- (e) a construction quality control procedure;
- (f) a plan for the future maintenance and management of the system. The sustainable drainage scheme is to be designed for a 1:200 year event plus 40% for climate change and infiltration drainage must be supported with testing to BRE digest 365. If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests or the discharge rate is too high then a mitigating drainage alternative shall be agreed with the Local Planning Authority and thereafter installed, maintained and retained in accordance with the agreed details for the life of the development.

Development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development.

12. Development shall take place in accordance with the details and recommendations set out in details submitted and approved pursuant to condition 12 of planning permission 1372/16/FUL regarding arsenic and heavy metal contamination.

Reason: To manage the potential risks arising from such contamination.

13. PRE COMMENCEMENT: No development hereby permitted shall be commenced until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) confirmation (by means of a site location plan) of the route(s) to and from the site to be used by delivery and construction traffic, together with a details of temporary AA Road Signing Strategy;
- (d) any road closure;
- (e) hours during which delivery and construction traffic will travel to and from the site;
- (f) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (g) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (h) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

- (i) provision of wheel wash facilities, dust suppression and noise limitation measures;
- (j) hours during which no construction traffic will be present at the site;
- (k) the means of enclosure of the site during construction works;
- (l) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site; (m) site management arrangements, including the site office and developer contact number in the event of any construction/demolition related problems, and site security information; and
- (n) a road condition survey using photographic evidence near to each proposed entrance to the site.

This approved CMP shall be strictly adhered to during the construction of the development hereby permitted, unless variation is approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, public convenience and highway safety, and preventing inconvenient obstruction and delays to public transport and service vehicles and to emergency vehicles.

14. Development shall take place in accordance with details submitted and agreed pursuant to condition 14 of planning permission 1372/16/FUL regarding tree and hedgerow protection during the course of construction

Reason: In the interests of visual and residential amenity

15. Details of all retaining walls to be built as part of the approved development shall be submitted to and approved in writing by the Local Planning Authority prior to their construction.

Reason: In the interests of visual amenity.

16. The proposed estate road, cycleways, footways, footpaths, verges, junctions, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved in writing by the Local Planning Authority before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To enable the Local Planning Authority to obtain adequate information for consideration of the ultimate proposal in the interests of highway safety and convenience.

17. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-

- (a) Part 1, Class A (extensions and alterations);
- (b) Part 1, Class C (roof addition or alteration);
- (c) Part 1, Class E (a) swimming pools and buildings incidental to the enjoyment of the dwellinghouse.
- (e) Part 2, Class A (means of enclosure).

Reason: To enable the Local Planning Authority to exercise control over development which

could materially harm the character and visual amenities of the development within the locality and to safeguard residential amenity.

18. The Landscape and Ecological Management Plan submitted to and approved in writing by the Local Planning Authority pursuant to condition 18 of planning permission 1372/16/FUL shall be fully implemented and adhered to at all times.

Reason: In the interests of ecological interest and to secure long term management of existing and new hedgerows.

19. All off site highway improvement works shall be complete prior to the occupation of the first dwelling.

Reason: In the interests of highway safety.

20. No mud, stones, water or debris shall be deposited on the public highway at any time.

Reason: In the interests of highway safety

21. Prior to the occupation of Plot One privacy screening at the rear of the property (plot 1) on the eastern site boundary shall be provided in accordance with details to have previously been agreed in writing with the Local Planning Authority, unless it has been demonstrated to the Local Planning Authority that there is no potential for overlooking into the neighbouring property to the east. The approved privacy screening shall be retained and maintained in perpetuity.

Reason: In the interest of residential amenity

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

Appeals Update from 26-Jan-18 to 23-Feb-18

Ward Allington and Strete

APPLICATION NUMBER : **1768/16/OPA** APP/K1128/W/17/3185418
APPELLANT NAME: The Perraton Family
PROPOSAL : Outline Planning application (with all matters reserved) for the erection of 28 dwellings (including affordable/starter homes), creation of community allotments, accesses, highway improvements and associated landscaping
LOCATION : Proposed Phase 2, Development Site Land At Ngr Sx77664245, Mill Lane Frogmore
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 30-January-2018
APPEAL DECISION:
APPEAL DECISION DATE:

Ward Dartmouth and East Dart

APPLICATION NUMBER : **1532/17/PAT** APP/K1128/W/17/318/2478
APPELLANT NAME: Vodafone Limited
PROPOSAL : Prior Notification of proposed development by telecommunications code system operators for new 20m monopole.
LOCATION : Land Opposite Byter Down Kennels, Stoke Gabriel, TQ9 6RL
APPEAL STATUS : Appeal Decided
APPEAL START DATE: 23-November-2017
APPEAL DECISION: Upheld (Conditional approval)
APPEAL DECISION DATE: 23-February-2018

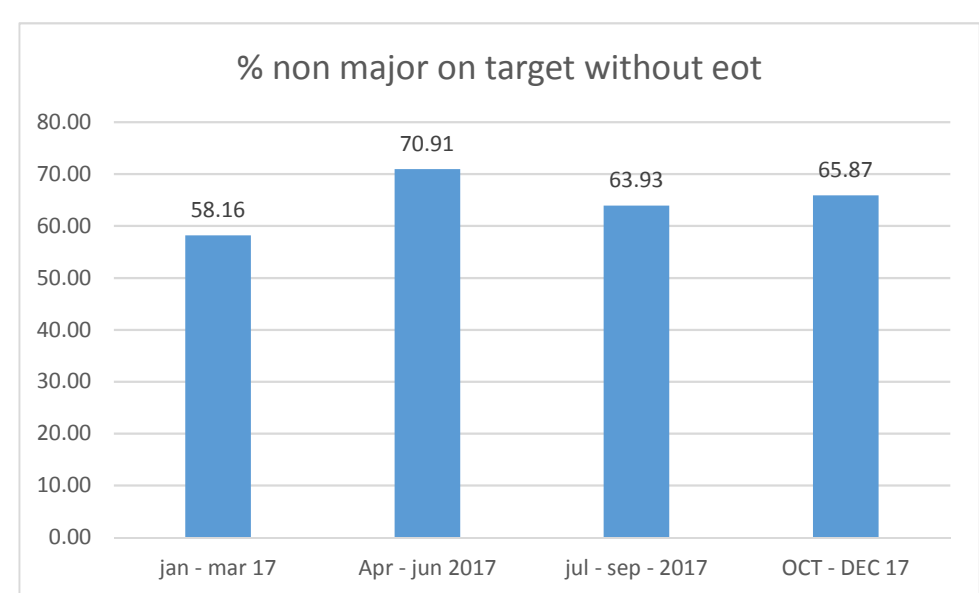
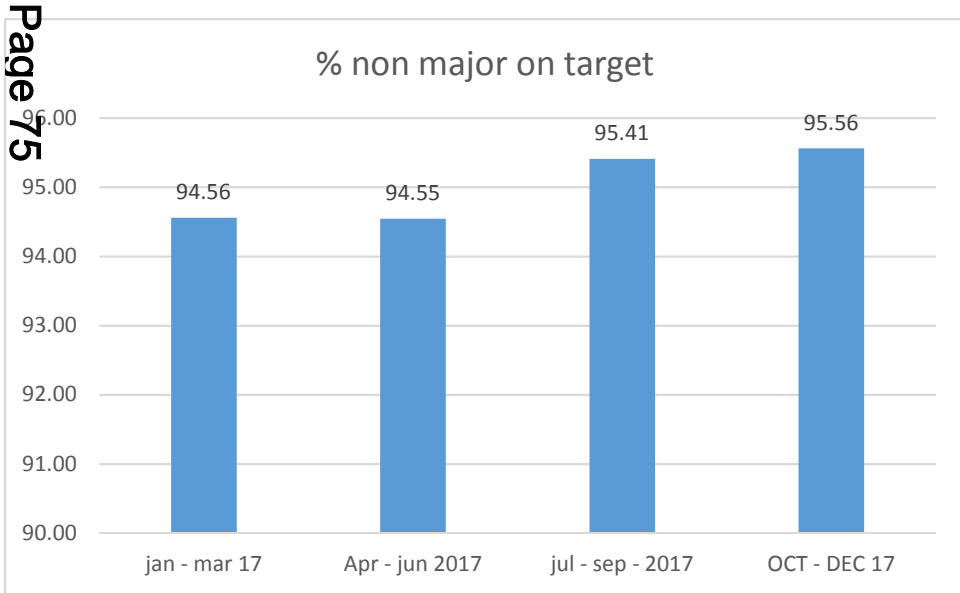
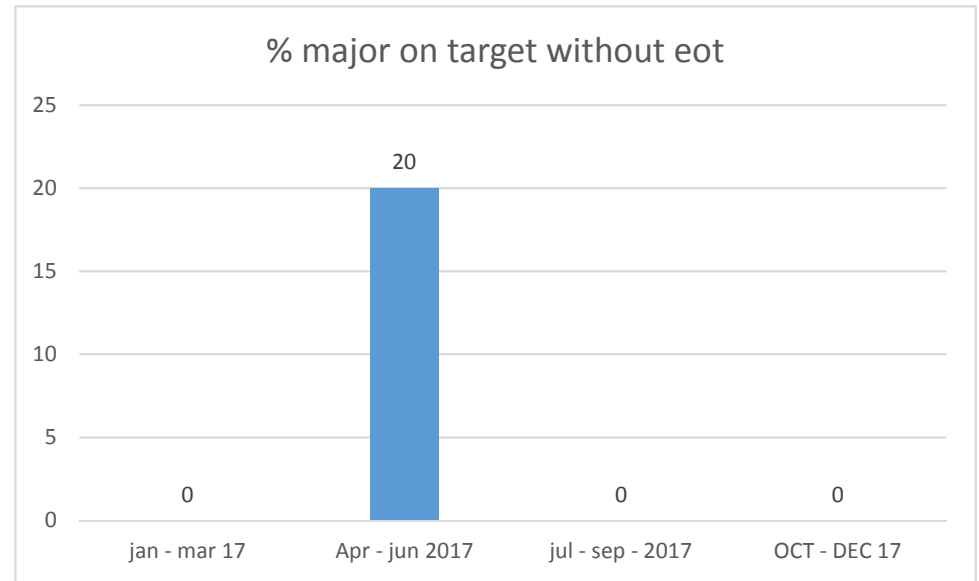
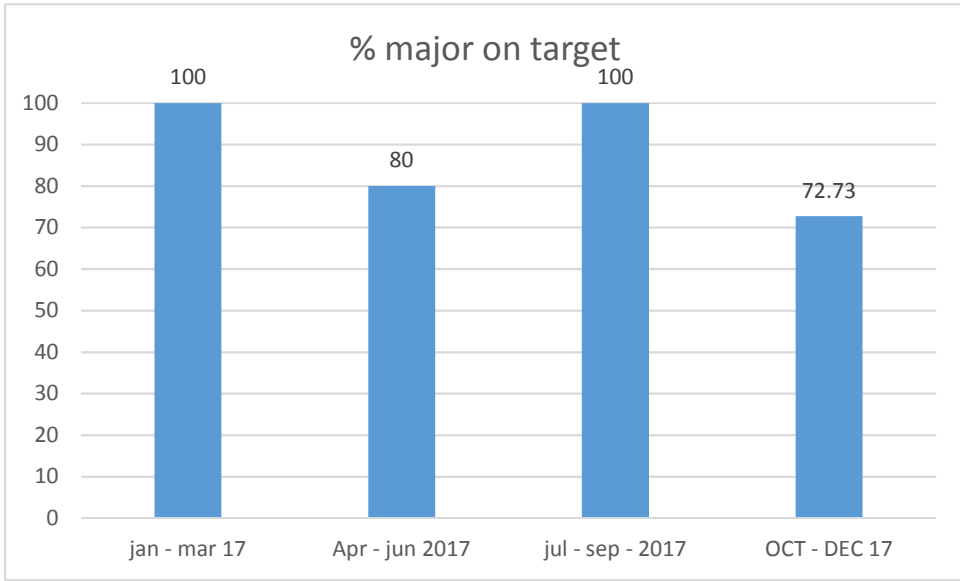
Ward Ermington and Ugborough

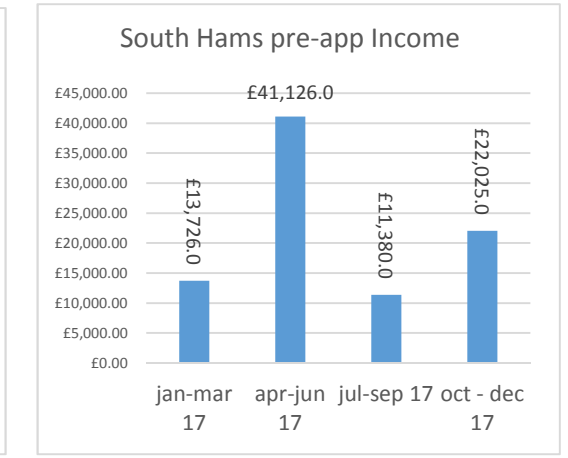
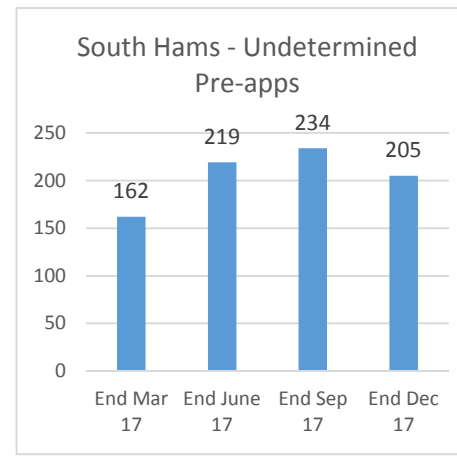
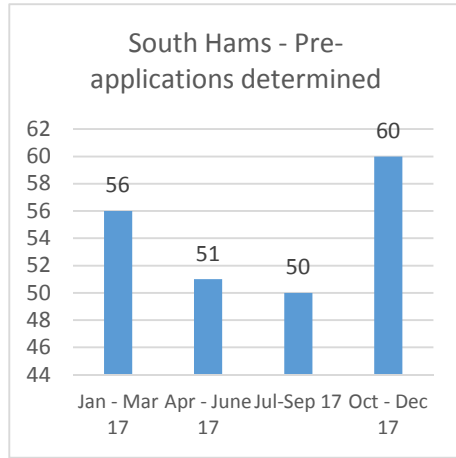
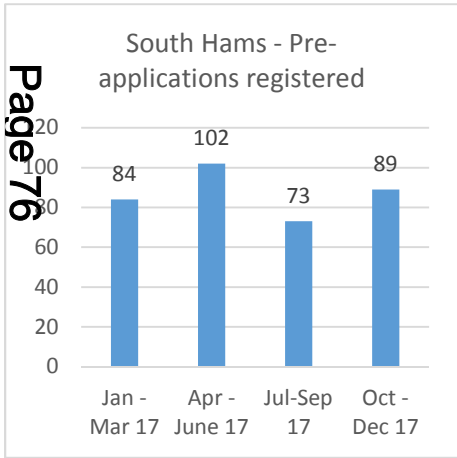
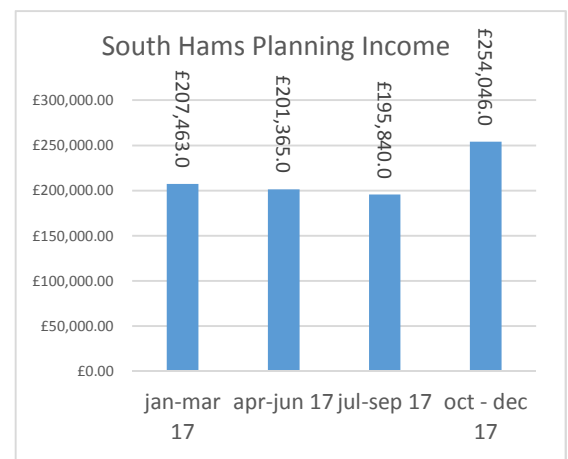
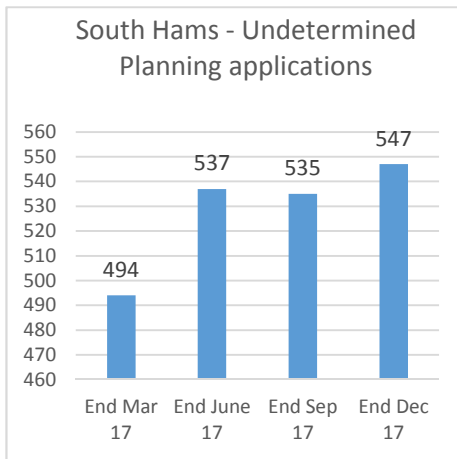
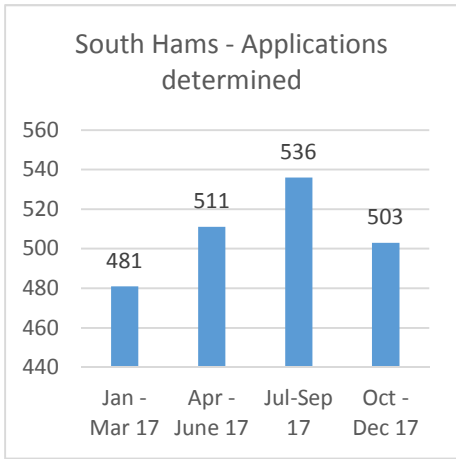
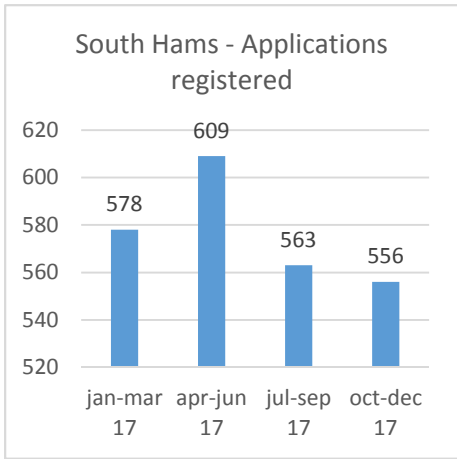
APPLICATION NUMBER : **2778/17/VAR** APP/K1128/W/17/3188082
APPELLANT NAME: Mr & Mrs N Cassidy
PROPOSAL : Variation of condition 2 (approved plans) following grant of planning consent 21/1923/15/F (Conversion of stone barn to dwelling) to allow for enlarged first floor opening to north west elevation
LOCATION : Higher Preston Barn, Ermington, PL21 9FQ
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 30-January-2018
APPEAL DECISION:
APPEAL DECISION DATE:

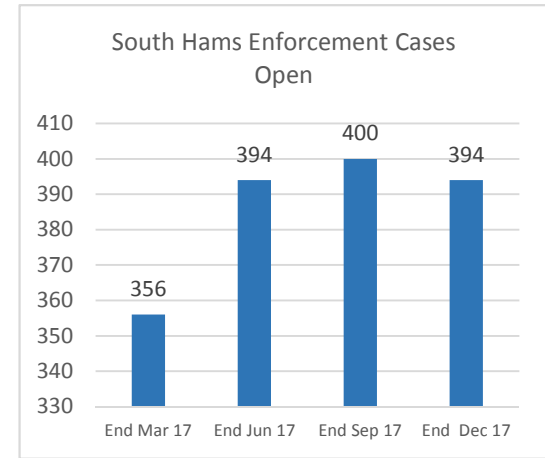
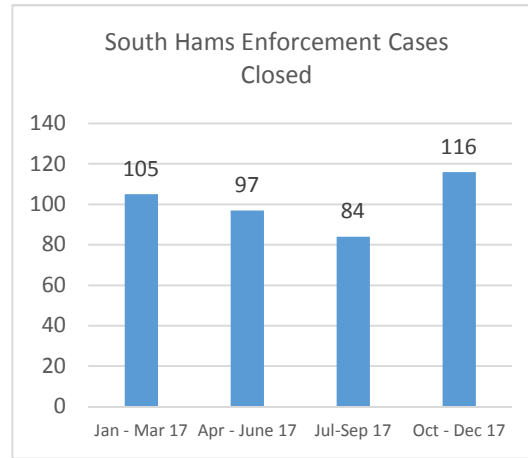
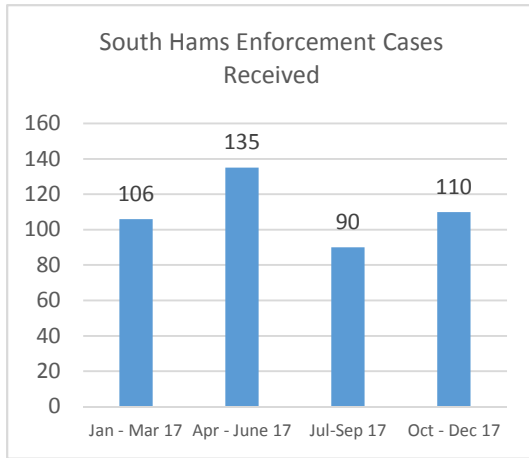
Ward Newton and Yealmpton

APPLICATION NUMBER : **2027/17/HHO** APP/K1128/W/17/3188937
APPELLANT NAME: Mr & Mrs C Hotham
PROPOSAL : Householder application for refurbishment and renovation of existing cottage, new garage/boat store and replacement of rear extension including a new roof terrace
LOCATION : Brook Bakery, Riverside Road West, Newton Ferrers, PL8 1AD
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 31-January-2018
APPEAL DECISION:
APPEAL DECISION DATE:

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South Hams	Number of decisions from 1 April 2016 – 31 March 2018 (as at 22 Feb 2018)	No of decisions that have been allowed at appeal	Percentage of decisions that have been allowed at appeal
Major Applications	72	2	2.78
Non-Major Applications	2549	20	0.78

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