

# South Hams Development Management Committee



<b>Title:</b>	<b>Agenda</b>										
<b>Date:</b>	<b>Wednesday, 29th July, 2015</b>										
<b>Time:</b>	<b>10.00 am</b>										
<b>Venue:</b>	<b>Council Chamber - Follaton House</b>										
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Steer</p> <p style="text-align: center;"><b>Vice Chairman</b> Cllr Foss</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Bramble</td> <td>Cllr Hodgson</td> </tr> <tr> <td>Cllr Brazil</td> <td>Cllr Holway</td> </tr> <tr> <td>Cllr Cane</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 Cane	Cllr Pearce	Cllr Cuthbert	Cllr Rowe	Cllr Hitchins	Cllr Vint
Cllr Bramble	Cllr Hodgson										
Cllr Brazil	Cllr Holway										
Cllr Cane	Cllr Pearce										
Cllr Cuthbert	Cllr Rowe										
Cllr Hitchins	Cllr Vint										
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.										
<b>Committee administrator:</b>	Kathy Trant Specialist- Democratic Services 01803 861185										

- 1. Minutes** **1 - 22**

to approve as a correct record and authorise the Chairman to sign the minutes of the meetings of the Committee held on **1 July 2015**
- 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) 57/2472/14/O** **23 - 38**

Outline application for mixed use development of approx. 198 no. dwellings, public open space, employment uses (including Health Centre), a neighbourhood centre and new roundabout on Exeter Road (access to be considered) – Land at SX 6483 5632 off Rutt Lane, Ivybridge
  - (b) 35/0059/15/F** **39 - 64**

35/0059/15/F - Mixed Use development on land for erection of B1 Use building, 93 dwellings, roads, footways and strategic Landscaping – Proposed development site at SX 655 518, West of Palm Cross Green, Church Street, Modbury; and

35/0465/15/F – Application for creation of car park and landscaped area of public open space, associated with adjoining development of 93 dwellings and B1 Use Building – Car Park, Palm Cross, Modbury

- |   |                  |
|---|------------------|
| <b>(c) 30/1422/14/F</b>   | <b>65 - 70</b>   |
| The Anchorage, Redoubt Hill, Kingswear, Dartmouth TQ6 0DA                                       |                  |
| <b>(d) 27/0372/15/F</b>   | <b>71 - 84</b>   |
| Proposed development site at SX 6345 5674, Mill Manor, Beacon Road, Ivybridge PL21 0AQ          |                  |
| <b>(e) 48/1099/15/F</b>   | <b>85 - 92</b>   |
| The Sail Loft, South Pool, Kingsbridge, TQ7 2RZ   |                  |
| <b>(f) 05/0383/15/F</b>   | <b>93 - 96</b>   |
| Proposed beach hut/kiosk, Land at SX 6508 4421, Bigbury on Sea                                  |                  |
| <b>(g) 49/0776/15/F</b>   | <b>97 - 102</b>  |
| Proposed development site at SX 5983 5575, rear of Lee Mill Inn, New Park Road, Lee Mill Bridge |                  |
| <b>(h) 41/0703/15/F</b>   | <b>103 - 112</b> |
| Proposed development site to rear of The Hollies, Devon Road, Salcombe, TQ8 8HQ                 |                  |
| <b>(i) 41/1104/15/F</b>   | <b>113 - 116</b> |
| Public Conveniences, Cliff House Gardens, Cliff Road, Salcombe, TQ8 8JQ                         |                  |
| <b>7. Planning Appeals Update</b>   | <b>117 - 118</b> |
| <b>8. Tree Preservation Order Report</b>  | <b>119 - 140</b> |
| Unregistered land on verge, St Katherine's Way, Totnes  |                  |

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## MINUTES OF THE MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE HELD AT FOLLATON HOUSE, TOTNES, ON WEDNESDAY, 1 JULY 2015

<b>Members in attendance</b>			
<b>* Denotes attendance</b>			
*	Cllr I Bramble	*	Cllr J M Hodgson
*	Cllr J Brazil	*	Cllr T R Holway
*	Cllr B F Cane	*	Cllr J A Pearce
*	Cllr P K Cuthbert	*	Cllr R Rowe
*	Cllr R J Foss (Vice Chairman)	*	Cllr R C Steer (Chairman)
*	Cllr P W Hitchins	*	Cllr R J Vint

<b>Other Members in attendance</b>
Cllrs Brown, Hawkins, Hicks, Pennington, Smerdon and Tucker

Item No	Minute Ref or App. No. below refers	Officers in attendance and participating
All agenda items		Cop Lead Development Management, Planning Officers, Solicitor and Member Services Manager
	14/0142/15/F	Highways Authority Officer, Affordable Housing Officer

**DM.7/15      MINUTES**

The minutes of the meeting of the Committee held on 27 May 2015 were confirmed as a correct record and signed by the Chairman.

**DM.8/15      DECLARATIONS OF INTEREST**

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

Cllrs Bramble, Cuthbert, Foss, Hitchins, Holway, Pearce, Rowe and Steer declared a personal interest in application **07/2752/14/VAR**: Variation of conditions (b) and (c) and removal of condition (d) of planning consent 07/0294/83/4 to allow all year occupation, lengthen times to stay on site to 6 months and to allow all year use to include on-site warden/security – Brixton Caravan and Camping Site, Steer Point Road, Brixton, by virtue of the applicant being a fellow Conservative Group Member of the Council. The Members remained in the meeting and took part in the debate and vote thereon;

Cllr Cane declared a disclosable pecuniary interest in application **07/2752/14/VAR**: Variation of conditions (b) and (c) and removal of condition (d) of planning consent 07/0294/83/4 to allow all year occupation, lengthen times to stay on site to 6 months and to allow all year use to include on-site warden/security – Brixton Caravan and Camping Site, Steer Point Road, Brixton, by virtue of being the applicant and he left the meeting for the duration of this application;

Cllrs Bramble, Cane, Cuthbert, Foss, Holway, Pearce, Rowe and Steer declared a personal interest in application **04/0550/15/O**: Outline application (all matters reserved) for erection of single dwelling – The Beeches, Bickleigh Down Road, Roborough by virtue of the applicant being a fellow Conservative Group Members of the Council. The Members remained in the meeting and took part in the debate and vote thereon;

Cllr Hitchins declared a disclosable pecuniary interest in application **04/0550/15/O**: Outline application (all matters reserved) for erection of single dwelling – The Beeches, Bickleigh Down Road, Roborough by virtue of being the applicant and he was absent from the meeting when this application was determined;

Cllrs Bramble, Foss, Pearce, Rowe and Steer declared a personal interest in application **30/1442/14/F**: Erection of a single two storey dwelling and separation of part of garden – The Anchorage, Redoubt Hill, Kingswear by virtue of the objector being known to Members of the Totnes Conservative constituency. The Members remained in the meeting and took part in the debate and vote thereon;

Cllr Cuthbert declared a personal interest in application **27\_57/0923/15/F**: Construction of new dwelling and detached double garage with office accommodation over (resubmission of 27\_57/1976/14/F) – Godwell House, Godwell Lane, Ivybridge by virtue of knowing the architect. She remained in the meeting and took part in the debate and vote thereon;

Cllr Vint declared a personal interest in application **23/0598/15/F**: Householder application for proposed extensions to rear and front of dwelling – The Linhay, Old Hazard Cottages, Harberton by virtue of the applicant being an acquaintance and he remained in the meeting and took part in the debate and vote thereon;

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

- **11/0042/14/F – 11/0045/14/F**: Erection of agricultural buildings, associated dwelling, new access road and site office – Land at SX 707 456, Bantham Cross, Churchstow, Kingsbridge;
- **15/0138/15/F**: Demolish existing garages and reform as three garages with a loft apartment above – Garages adjacent 3 Sandquay Road, Dartmouth;
- **21\_27/2754/14/VAR**: Variation of condition 2 of approval 21/2161/04/F to allow increase in the total floorspace devoted to the sale of certain goods – Endsleigh Garden Centre, Endsleigh, Ivybridge;
- **30/1799/14/F**: Erection of 2 no. flats with garages and parking – Plot to rear of Inglewood Cottages, Higher Contour Road, Kingswear. Cllr Rowe also declared a personal interest by virtue of the architect being known to her;

- **30/1442/14/F**: Erection of a single two storey dwelling and separation of part of garden – The Anchorage, Redoubt Hill, Kingswear;

DM.9/15

**PUBLIC PARTICIPATION**

The Chairman proceeded to announce that the following members of the public had registered their wish to speak at the meeting:-

- **14/0142/15/F**: Objector – Ms Trudy Turrell: Supporter – Mr Steve Bottomley: Parish Council – Cllr Ashton Chadwick: Redevelopment of existing Brimhay Bungalows to provide 32 new dwellings and associated highway (12 no. 1 bed apartments, 12 no. market houses and 8 flats) – Development site at SX 7863 6192 Forder Lane, Dartington;
- **11/0042/14/F – 11/0045/14/F**: Objectors – Mr Richard Martin and Mr Tom Roche: Supporter – Mr Andrew Lethbridge: Parish Council – Cllr Roger Hind: Erection of agricultural buildings, associated dwelling, new access road and site office – Land at SX 707 456, Bantham Cross, Churchstow, Kingsbridge;
- **15/0138/15/F**: Objector – Mr Les Barnes: Supporter – Mr Simon French: Demolish existing garages and reform as three garages with a loft apartment above – Garages adjacent 3 Sandquay Road, Dartmouth;
- **21\_27/2754/14/VAR**: Objector – Ms Pat White: Supporter – Mr Andrew Ayles: Parish Council – Cllr Roy Hartwell: Town Council – Cllr Sylvia Rutley: Variation of condition 2 of approval 21/2161/04/F to allow increase in the total floorspace devoted to the sale of certain goods – Endsleigh Garden Centre, Endsleigh, Ivybridge;
- **30/1799/14/F**: Objector – Mr William Searle: Supporter – Mr Paul Brinton: Erection of 2 no. flats with garages and parking – Plot to rear of Inglewood Cottages, Higher Contour Road, Kingswear;
- **07/2752/14/VAR**: Objector – Mr Dave Springbett: Supporter – Mrs Amanda Burden: Parish Council – Cllr Patrick Loxdale: Variation of conditions (b) and (c) and removal of condition (d) of planning consent 07/0294/83/4 to allow all year occupation, lengthen times to stay on site to 6 months and to allow all year use to include on-site warden/security – Brixton Caravan and Camping Site, Steer Point Road, Brixton;
- **30/1442/14/F**: Objector – Mr John Crozier: Supporter – Mr Mark Evans: Erection of a single two storey dwelling and separation of part of garden – The Anchorage, Redoubt Hill, Kingswear;
- **27\_57/0923/15/F**: Objector – Mrs Helen Harris: Supporter – Mr Ian Hodgson: Construction of new dwelling and detached double garage with office accommodation over (resubmission of 27\_57/1976/14/F) – Godwell House, Godwell Lane, Ivybridge;
- **23/0598/15/F**: Supporter – Mrs Claire King-Smith: Householder application for proposed extensions to rear and front of dwelling – The Linhay, Old Hazard Cottages, Harberton;
- **34/0711/15/F**: Objector – Mrs Jacqueline Hunter: Supporter – Mr Tim Willcocks: Householder application for proposed rear single storey extension with flat roof – 18 Brockhurst Park, Marldon
- **34/0861/15/F**: Supporter – Mrs Carol Peakman: Householder application for raising of roof and roof extensions to provide first floor accommodation and alterations to existing windows – 39 Pembroke Park, Marldon.

**DM.10/15 SITE INSPECTIONS**

There were no site inspections carried forward from the meeting on 27 May 2015. Applications referred for site inspection at the meeting held on 15 April 2015 would be considered later on the agenda (Minute DM.11/15 refers).

**DM.11/15 PLANNING APPLICATIONS**

The Planning Case Officers submitted details of the planning applications as presented in the agenda papers.

During discussion of the planning applications, the following motions (which were in contradiction to the planning officer recommendation in the published agenda report), were **PROPOSED** and **SECONDED** and on being put to the vote were either **CARRIED** or **LOST**:-

- a) In respect of application **14/0142/15/F**: Redevelopment of existing Brimhay Bungalows to provide 32 new dwellings and associated highway (12 no. 1 bed apartments, 12 no. market houses and 8 flats) – Development site at SX 7863 6192 Forder Lane, Dartington the Case Officer began by outlining the application and the areas to be covered within his presentation. He updated the Committee with clarification related to the Tree Preservation Order and confirmed that the Landscape Officer was satisfied with the submitted tree protection plan and landscape management plan. He also advised the Committee that an application had been received by Devon County Council for a public right of way, which ran through the application area. Until this was confirmed, the application for the public right of way had little weight. The District Council had also received a request for the open space around the site to be listed as an Asset of Community Value. Concerns had been raised relating to land ownership but this was not a material planning consideration. Dartington Hall Trust had sent a letter requesting that the application be deferred. Finally the community had discussed an alternative application and the Case Officer advised that their application was likely to receive support, however, a full application had not yet been received and there was a duty to determine the application that had been submitted on its own merits.

The Case Officer went on to outline the application in detail using plans and photographs. He concluded that, when assessed against planning policies, the application was appropriate and the recommendation was for conditional approval.

The local Ward Member stated her concerns in respect of the time allowed for the Committee site inspection. She noted that in terms of the design of the proposal there had been no guidance in the form of consideration by the Council's Design Panel, no Developer Forum and no discussions with her.



She raised concerns over the expectation on a new planning officer to pick up a case he was unfamiliar with and produce a good report that showed an understanding of the parish and also noted that she had not received a full viability assessment as requested. The proposal was felt to be out of character for the area and represented over massing and scale. The design was too dense and the Case Officer referred to an urban setting but this area was rural. She was concerned that residents would not meet each other if the footpath was rerouted, the parking would be removed, the properties were 'stuffed in' and that there were two Listed Buildings close by that had not been reflected in the application. She raised concerns over the access to the site, and also about the biodiversity implications. She also felt that the proposal reflected social injustice. However, there was a better, community led plan. She concluded that the Council had a duty to look at the best quality plans and needed to take a serious look at what was offered in terms of potential development for the area.

During discussion on the proposal, Members considered the height of the proposal, in comparison with existing buildings. They also sought clarification on whether the social housing was intended for local people. The Affordable Housing Officer confirmed that the Roc building was for people local to the South Devon area. One Member was disappointed that the applicant had alienated the local community. The percentage of affordable housing was acceptable, however the design did not suit the location in their opinion. This, along with the impact on the natural environment meant he was unable to support the application. Another Member felt that without a five year land supply there was not sufficient reason to refuse the application. One Member felt that the proposal reflected a segregated housing scheme and the affordable housing did not reflect the needs of the elderly and disabled and therefore he would not support it. The Ward Member concluded by asking the Committee to take a lead on good development and refuse the application.

It was then **PROPOSED** and **SECONDED** and on being put to the vote declared **LOST**:-

'That the application be refused'

It was then **PROPOSED** and **SECONDED** and on being put to the vote declared **CARRIED**:-

'That the application be conditionally approved in line with officer recommendation'.

- b) In respect of application **21\_27/2754/14/VAR**: Variation of condition 2 of approval 21/2161/04/F to allow increase in the total floorspace devoted to the sale of certain goods – Endsleigh Garden Centre, Endsleigh, Ivybridge, the Case Officer advised the Committee that the presented report contained the detail of the proposal. The Committee was also advised of changes in legislation relating to additional rights relating to change of use but that changes could not take place without an application being made.

During discussion, Members queried whether a quantitative assessment had been undertaken of the current retail area. Members also asked how it would be possible to enforce any condition on the area allowed for non garden centre retail without conducting a 'tape measure' exercise.

Local Ward Members supported the view of their respective parish and town council and were concerned that the proposal would have a detrimental impact on the town centre. Other Members felt there was no planning justification for refusal of the application. The COP Lead Specialist Development Management drew the distinction between interference in the free market and preserving the vitality of town centres. Another Member felt it would be appropriate to retain the existing conditions in order to support the local businesses.

It was then **PROPOSED** and **SECONDED** and on being put to the vote declared **CARRIED**:-

'That the application be refused'

Reasons:

The proposal to increase floor area of non garden centre related goods and relaxation of retail floor limits for individual uses would harm the vitality and viability of Ivybridge Town Centre and as such would be contrary to Chapter 2 of the National Planning Policy Framework and Policy SHDC 23 of the South Hams Local Plan.

- c) In respect of application **30/1442/14/F**: Erection of a single two storey dwelling and separation of part of garden – The Anchorage, Redoubt Hill, Kingswear it was **PROPOSED**, **SECONDED** and on being put to the vote **CARRIED**:

'That a site inspection be held'

- d) In respect of application **23/0598/15/F**: Householder application for proposed extensions to rear and front of dwelling – The Linhay, Old Hazard Cottages, Harberton, the Case Officer began by advising the Committee that there was one late letter of support which had been received stating that the proposal was appropriate and not visible to anyone other than the immediate neighbours.

Plans and elevations were then shown to explain the proposal. The Case Officer noted that the front extension included a lot of glazing and would obscure the existing barn conversion. The glazing would significantly alter the rural character and the rear extension would dominate the appearance. On balance, there would be significant detrimental impact and the proposal was contrary to Policy. For that reason, she was recommending refusal.

The local Ward Member advised the Committee that this proposal was an exception to the rule. The property was only visible to immediate neighbours other than through a small gap, and there was neighbour and parish council support. The original barn conversion had been undertaken many years ago, and it could be argued that the character was lost with the conversion.

During discussion, a number of Members agreed with this view, and also that policies should provide guidance rather than a hard and fast rule. Members generally felt that the officer was right to recommend refusal, and also noted that a more modest proposal may have been more appropriate, however, in view of the community support the proposal should be supported.

It was then **PROPOSED, SECONDED** and on being put to the vote declared **CARRIED** that the application be conditionally approved.

Reasons:

The proposal site was an early barn conversion and the character had already been lost. The proposed extensions would not detrimentally change the character.

Conditions:

Accord with Plans  
Standard time  
Materials  
Accord with Ecology Report

DM.12/15 **PLANNING APPEALS UPDATE**

The COP Lead for Development Management updated Members on the detail of the listed appeals.

(Meeting commenced at 10.00 am and concluded at 6:50 pm)

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Chairman

## Voting Analysis for Planning Applications – DM Committee 1 July 2015

Application No:	Site Address	Vote	Councillors who Voted Yes	Councillors who Voted No	Councillors who Voted Abstain	Absent
14/0142/15/F	Development site at SX 7863 6192, Forder Lane, Dartington	Refusal	Cllrs Hodgson, Cane, Brazil, Vint (4)	Cllrs Bramble, Cuthbert, Foss, Pearce, Holway, Rowe, Hitchins, Steer (8)		
14/0142/15/F	Development site at SX 7863 6192, Forder Lane, Dartington	Conditional Approval	Cllrs Bramble, Cuthbert, Foss, Pearce, Holway, Rowe, Hitchins, Steer (8)	Cllrs Hodgson, Cane, Brazil, Vint (4)		
11/0042/14/F	Land at SX 707 456, Bantham Cross, Churchstow	Conditional Approval	Cllrs Cane, Hitchins, Holway, Cuthbert, Vint, Brazil, Steer, Foss (8)	Cllrs Rowe, Pearce, Bramble, Hodgson (4)		
11/0043/14/F	Land at SX 707 456, Bantham Cross, Churchstow	Conditional Approval	Cllrs Cane, Hitchins, Holway, Cuthbert, Vint, Brazil, Steer, Foss (8)	Cllrs Rowe, Pearce, Bramble, Hodgson (4)		
11/0044/14/F	Land at SX 707 456, Bantham Cross, Churchstow	Conditional Approval	Cllrs Cane, Hitchins, Holway, Cuthbert, Vint, Brazil, Steer, Foss (8)	Cllrs Rowe, Pearce, Bramble, Hodgson (4)		
11/0045/14/F	Land at SX 707 456, Bantham Cross, Churchstow	Conditional Approval	Cllrs Cane, Hitchins, Holway, Cuthbert, Vint, Brazil, Steer, Foss (8)	Cllrs Rowe, Pearce, Bramble, Hodgson (4)		
15/0138/15/F	Garages adj to 3 Sandquay Road, Dartmouth	Conditional Approval	Cllrs Cane, Hitchins, Holway, Cuthbert, Vint, Brazil, Steer, Foss, Rowe, Pearce, Bramble, Hodgson (12)			
21_27/2754/14/ VAR	Endsleigh Garden Centre, Endsleigh, Ivybridge	Conditional Approval	Cllrs Steer, Bramble, Rowe, Pearce, Cane (5)	Cllrs Holway, Cuthbert, Vint, Hodgson, Brazil, Foss (6)	Cllr Hitchins (1)	

21_27/2754/14/ VAR	Endsleigh Garden Centre, Endsleigh, Ivybridge	Refusal	Cllrs Holway, Cuthbert, Vint, Hodgson, Brazil, Foss (6)	Cllrs Steer, Bramble, Rowe, Pearce, Cane (5)	Cllr Hitchins (1)	
30/1799/14/F	Plot to rear of Inglewood Cottages, Higher Contour Road, Kingswear	Conditional Approval	Cllrs Steer, Foss, Bramble, Pearce, Rowe, Cane, Holway, Cuthbert, Hitchins, Hodgson, Vint (11)		Cllr Brazil (1)	
07/2752/14/VAR	Brixton Caravan and Camping Site, Steer Point Road, Brixton	Conditional Approval	Cllrs Bramble, Pearce, Rowe, Hodgson, Steer, Holway (6)	Cllrs Cuthbert, Vint, Brazil, Foss (4)	Cllr Cane due to DPI (1)	Cllr Hitchins (1)
30/1422/14/F	The Anchorage, Redoubt Hill, Kingswear	Site Inspection	Cllrs Foss, Steer, Hodgson, Holway, Rowe, Cuthbert, Cane, Bramble, Vint (9)	Cllrs Pearce, Brazil (2)		Cllr Hitchins (1)
27_57/0923/15/F	Godwell House, Godwell Lane, Ivybridge	Conditional Approval	Cllrs Pearce, Holway, Cuthbert, Vint, Foss, Steer (6)	Cllr Cane, Bramble, Hodgson (3)	Cllr Brazil (1)	Cllrs Hitchins, Rowe (2)
34/0550/15/O	The Beeches, Bickleigh Down Road, Roborough	Conditional Approval	Cllrs Pearce, Holway, Cuthbert, Vint, Foss, Steer, Cane, Bramble, Brazil (9)			Cllrs Hitchins, Rowe, Hodgson (3)
23/0598/15/F	The Linhay, Old Hazard Cottages, Harberton	Conditional Approval	Cllrs Holway, Vint, Foss, Steer, Cane, Bramble, Brazil (7)	Cllr Cuthbert (1)	Cllr Pearce (1)	Cllrs Hitchins, Rowe, Hodgson (3)
34/0711/15/F	18 Brockhurst Park, Marldon	Conditional Approval	Cllrs Holway, Vint, Foss, Steer, Cane, Bramble, Cuthbert, Pearce (8)			Cllrs Hitchins, Rowe, Hodgson, Brazil (4)
34/0861/15/F	39 Pembroke Park, Marldon	Conditional Approval	Cllrs Holway, Vint, Foss, Steer, Cane, Bramble, Cuthbert, Pearce (8)			Cllrs Hitchins, Rowe, Hodgson, Brazil (4)

**DRAFT APPENDIX A**

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**14/0142/15/F**

**Redevelopment of existing Brimhay Bungalows to provide 32 new dwellings and associated highway. (12no. 1 bed apartments, 12no. market houses and 8 flats)**

Parish or Town Council: Dartington

***Parish Council's Views: Objection***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

1. Standard time limit for commencement;
  2. Accord with Plans, Drawings and FRA;
  3. GPDO Exclusion;
  4. Unsuspected Contamination;
  5. On-site highway works in accordance with plans / drawings;
  6. Construction Management Plan to be submitted and approved prior to commencement;
  7. Construction Method Plan to be submitted and approved prior to commencement;
  8. Phasing Plan to be submitted and approved prior to commencement;
  9. Surface water drainage layout and details to be submitted prior to commencement and the approved details completed and operational prior to occupation;
  10. Adherence to the Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Methodology Statements;
  11. Submission, prior to commencement, of a Lighting Strategy;
  12. Renewable energy / energy efficiency details to be submitted and approved prior to commencement;
  13. Submission and agreement, prior to commencement, of a Landscape and Ecological Management Plan.
  14. Copy of a Dormouse European Protected Species Licence.
  15. Adherence to measures within Preliminary Ecological Appraisal, and Bat Activity Survey Report.
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**11/0042/14/F**

Description etc. Erection of agricultural building (No1, washing), associated dwelling, new access road and site office. Resubmission of planning ref 11/1547/13/F

Parish or Town Council: Churchstow Parish Council

***Parish Council's Views: Objections***

Officer Update – additional landscaping condition to secure planning to provide greenery all year round and annual inspections for the first 5 years after completion

Recommendation – Officer Recommendation for approval

**Conditions:**

1. Standard 3 year time limit;
2. Accord with plans;
3. Level of buildings;
4. Use limited to produce washing and grading only no other B2 use
5. B2 use to be ancillary to agricultural use only
6. Surface water drainage;
7. Drainage accord with approved details and implemented prior to commencement of use;
8. Foul drainage;
9. Noise controls;
10. No mud/debris onto highway;
11. Permanent closure of existing access;
12. Construction Management Plan;
13. Details external lighting;
14. Landscaping – strategic planting;
15. Landscaping 1yr inspection;
16. Protection of hedgerows;
17. Submission of Extended Phase 1 habitat survey;
18. Access and manoeuvring/turning areas complete prior to use of agricultural buildings;
19. Materials schedule/samples;
20. Removal of GDO rights for agricultural/business buildings;
21. Site office for use in connection with business only;
22. Agricultural tie on dwelling;
23. Removal of GDO rights on dwelling;
24. Drainage for dwelling complete prior to occupation;
25. Access to dwelling complete prior to occupation.
26. Distribution of potatoes from site shall not be carried out between the hours of 2200 – 0800 Monday – Sunday

Plus landscaping condition as above

**Committee Decision – Conditional approval**

**11/0043/14/F**

Description etc. Erection of agricultural building (No.2, cold storage building). Resubmission of planning ref 11/1545/13/F

Parish or Town Council: Churchstow Parish Council

***Parish Council's Views: Objections***

Officer Update – landscaping condition to secure planning to provide greenery all year round and annual inspections for the first 5 years after completion

Recommendation – Officer Recommendation for approval

**Conditions:**

1. Standard 3 year time limit;
2. Accord with plans;
3. Level of buildings;
4. Use limited to produce washing and grading only no other B2 use
5. B2 use to be ancillary to agricultural use only
6. Surface water drainage;
7. Drainage accord with approved details and implemented prior to commencement of use;
8. Foul drainage;
9. Noise controls;
10. No mud/debris onto highway;
11. Permanent closure of existing access;
12. Construction Management Plan;
13. Details external lighting;
14. Landscaping – strategic planting;
15. Landscaping 1yr inspection;
16. Protection of hedgerows;
17. Submission of Extended Phase 1 habitat survey;
18. Access and manoeuvring/turning areas complete prior to use of agricultural buildings;
19. Materials schedule/samples;
20. Removal of GDO rights for agricultural/business buildings.
21. Distribution of potatoes from site shall not be carried out between the hours of 2200 – 0800 Monday - Sunday

Plus landscaping condition as above

**Committee Decision – Conditional approval**



**11/0044/14/F**

Erection of agricultural building (No3, cold store) Resubmission of planning ref 11/1546/13/F

Parish or Town Council: Churchstow Parish Council

***Parish Council's Views: Objections***

Officer Update – landscaping condition to secure planning to provide greenery all year round and annual inspections for the first 5 years after completion

Recommendation – Officer Recommendation for approval

**Conditions:**

1. Standard 3 year time limit;
2. Accord with plans;
3. Level of buildings;
4. Use limited to produce washing and grading only no other B2 use
5. B2 use to be ancillary to agricultural use only
6. Surface water drainage;
7. Drainage accord with approved details and implemented prior to commencement of use;
8. Foul drainage;
9. Noise controls;
10. No mud/debris onto highway;
11. Permanent closure of existing access;
12. Construction Management Plan;
13. Details external lighting;
14. Landscaping – strategic planting;
15. Landscaping 1yr inspection;
16. Protection of hedgerows;
17. Submission of Extended Phase 1 habitat survey;
18. Access and manoeuvring/turning areas complete prior to use of agricultural buildings;
19. Materials schedule/samples;
20. Removal of GDO rights for agricultural/business buildings.
21. Distribution of potatoes from site shall not be carried out between the hours of 2200 – 0800 Monday - Sunday

Plus landscaping condition as above

**Committee Decision – Conditional approval**

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**11/0045/14/F**

Erection of agricultural building (No. 4, grading unit for potatoes) Resubmission of planning ref 11/1544/13/F

Parish or Town Council: Churchstow Parish Council

***Parish Council's Views: Objections***

Officer Update – landscaping condition to secure planning to provide greenery all year round and annual inspections for the first 5 years after completion

Recommendation – Officer Recommendation for approval

**Conditions:**

1. Standard 3 year time limit;
2. Accord with plans;
3. Level of buildings;
4. Use limited to produce washing and grading only no other B2 use
5. B2 use to be ancillary to agricultural use only
6. Surface water drainage;
7. Foul drainage;
8. Drainage accord with approved details and implemented prior to commencement of use;
9. Noise controls;
10. No mud/debris onto highway;
11. Permanent closure of existing access;
12. Construction Management Plan;
13. Details external lighting;
14. Landscaping – strategic planting;
15. Landscaping 1yr inspection;
16. Protection of hedgerows;
17. Submission of Extended Phase 1 habitat survey;
18. Access and manoeuvring/turning areas complete prior to use of agricultural buildings;
19. Materials schedule/samples;
20. Removal of GDO rights for agricultural/business buildings.
21. Distribution of potatoes from site shall not be carried out between the hours of 2200 – 0800 Monday - Sunday

Plus landscaping condition as above

**Committee Decision – Conditional approval**

**15/0138/15/F**

Demolish existing garages and reform as three garages with a loft apartment above

Parish or Town Council: Dartmouth TC

***Town Council's Views:***

Recommend refusal on the grounds of 1. Overdevelopment in a Conservation Area; 2. Unneighbourly; 3. Encroachment.

Officer Update – None

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional Approval.**

**Conditions:**

Standard Time Limit  
Accord with Plans  
Unsuspected Contamination  
Universal Contaminated Land  
Verification Report (Contamination)  
Materials (including timber finish and natural slate)  
Drainage  
Garage Doors  
Natural Stonework

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**21\_27/2754/14/VAR**

Variation of condition 2 of approval 21/2161/04/F to allow increase in the total floorspace devoted to the sale of certain goods

Parish or Town Council: Ermington PC / Ivybridge TC

Ermington Parish Council: Objection

Ivybridge Town Council: Objection

Officer Update – None

Recommendation – Officer Recommendation for approval

Reason for Refusal: The proposal to increase floor area of non garden centre related goods and relaxation of retail floor limits for individual uses would harm the vitality and viability of Ivybridge Town Centre and as such would be contrary to Chapter 2 of the National Planning Policy Framework and Policy SHDC 23 of the South Hams Local Plan.

**Committee Decision – Refusal**

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**30/1799/14/F** - Plot to rear of Inglewood Cottages, Higher Contour Road, Kingswear, TQ6 0AT

Erection of 2no. flats with garages and parking

Parish or Town Council: Kingswear

***Parish Council's Views: Objection***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

**Conditions:**

1. Time limit
  2. Accord with plans
  3. Final details (to be agreed prior to residential occupation of Flat 1) and obscure glazing to windows to NE1, NE2, SW1 and SW2
  4. Details of privacy screen, to be installed prior to residential occupation of Flat 1
  5. Fence to be installed prior to residential occupation of Flat 2
  6. Timing of works outside bird nesting season
  7. Development in accordance with Ecological Appraisal
  8. Works in accordance with agreed Arboricultural Impact Assessment and Arboricultural Method Statement
  9. Submission of and implementation of landscape scheme
  10. Unsuspected contamination
-

**07/2752/14/VAR**

Variation of conditions (b) and (c) and removal of condition (d) of planning consent 07/0294/83/4 to allow all year occupation, lengthen times to stay on site to 6 months and to allow all year use to include on-site warden/security

Parish or Town Council: Brixton

***Parish Council's Views: Objection***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

- Time limit for commencement
  - In accordance with plans
  - Only to be used for holiday/tourist/short term residential visitor purposes and a visitors register to be kept
  - Warden accommodation solely occupied by the site warden and not for holiday accommodation or other residential purposes.
  - No caravan storage to take place at any time.
  - Outside of the period 15th November to 15th March only the northern field (as shown on the site plan received on 3/3/2015) shall be used, and for no more than twenty (20) caravans at any one time.
  - The northern part of the site (as shown on the site plan submitted by P Daw on 3/3/2015) may, for a period not exceeding two years from the date of this decision be used for short-term occupancy, with no one occupant exceeding a six months stay within any a 12 month period.
  - Touring caravans only and no statics
  - No pedestrian or vehicle access to the Class I road.
  - Landscaping
- 

**30/1422/14/F**

Erection of a single two storey dwelling and separation of part of garden - The Anchorage, Redoubt Hill, Kingswear, Dartmouth TQ6 0DA

Parish or Town Council: Kingswear

***Parish Council's Views: Objection***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

**Conditions:**

Time limit for commencement  
In accordance with approved plans  
Permitted development restrictions  
Materials to be agreed  
Unsuspected contamination condition  
Details of foul and surface water drainage

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**27\_57/0923/15/F**

Construction of new dwelling and detached double garage with office accommodation over  
(resubmission of 27\_57/1976/14/F) - Godwell House, Godwell Lane, Ivybridge, PL21 0LT

Parish or Town Council: Ivybridge Town Council's Views: Objection

Parish or Town Council: Ugborough Parish Council's Views: No Objection

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

**Conditions:**

Standard 3 year time limit  
Accord with plans  
Accord with details of submitted arboricultural assessment and associated plan  
Foul water drainage details prior to commencement of development  
Surface water drainage details prior to commencement of development  
Landscape design proposals prior to commencement of development  
Retention of parking for motor vehicles  
Office use to remain ancillary to dwelling  
Restrictions of Permitted Development Rights  
Obscure glass in first floor window on western elevation  
No use of the flat roof as amenity area  
Unsuspected contamination

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**04/0550/15/O**

Outline application (all matters reserved) for erection of single dwelling –  
The Beeches, Bickleigh Down Road, Roborough, Plymouth, PL6 7AD

Parish or Town Council: Bickleigh

***Parish Council's Views: Approval***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

**Conditions:**

Time limit condition

Accord with plans

No development until reserved matters approved

Unsuspected contamination

Drainage condition – sewage further details prior to commencement of development

Drainage condition – soakaway further details prior to commencement of development

Landscape plan prior to commencement of development

Trees – submission of details – prior to the commencement of development

---

**23/0598/15/F**

Householder application for proposed extensions to rear and front of dwelling

The Linhay, Old Hazard Cottages, Harberton, TQ9 7LN

Parish or Town Council: Harberton

***Parish Council's Views: No objection***

Officer Update –

Recommendation – Officer Recommendation for refusal

**Committee Decision – Conditional approval**

Conditions:

Accord with Plans

Standard time

Materials

Accord with Ecology Report

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**34/0711/15/F**

Householder application for proposed rear single storey extension with flat roof  
18 Brockhurst Park, Marldon, Paignton, TQ3 1LB

Parish or Town Council: Marldon

***Parish Council's Views: Objection***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

Conditions:

Time

Accords with plans

Materials to match existing

No windows to be inserted in north and south elevations

Fencing not to exceed 1.8 m in height above existing ground level except where it lies adjacent to the deck, where the height shall be 1.8m from the finished floor level of the deck.

Informative – SW Water

Informative – Party Wall Act

---

**34/0861/15/F**

Householder application for raising of roof and roof extensions to provide first floor accommodation and alterations to existing windows

39 Pembroke Park, Marldon, Paignton, TQ3 1NL

Parish or Town Council: Marldon

***Parish Council's Views: Objection***

Officer Update –

Recommendation – Officer Recommendation for approval

**Committee Decision – Conditional approval**

Conditions:

Time

Accordance with plans

Materials to match

Side facing velux windows to be obscure glazed

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## PLANNING APPLICATION REPORT

**Case Officer:** Tom Sylger-Jones  
**Application No:** 57/2472/14/O

**Parish:** Ugborough

**Agent/Applicant:**  
Michael Craggs  
DPDS  
Old Bank House, 5 Devizes Road  
Old Town  
Swindon, SN1 4BJ

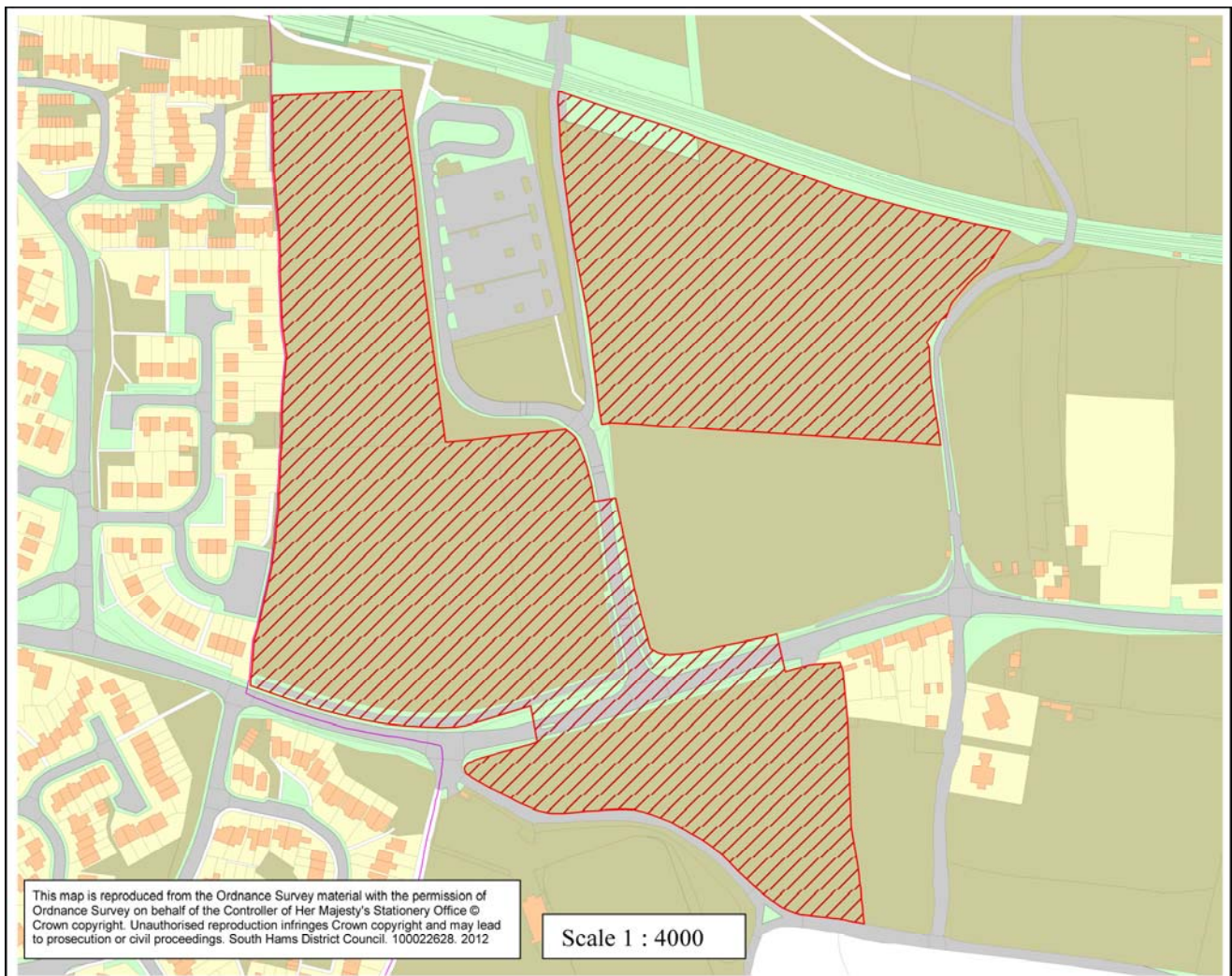
**Applicant:**  
Hannick Homes  
Dammas House  
Dammas Lane  
Old Town, Swindon  
SN1 3EF

**Site Address:** Land at SX6483 5632, off Rutt Lane, Ivybridge

**Development:** Outline application for mixed use development of approx 198 no. dwellings, public open space, employment uses (including Health Centre), a neighbourhood centre and new roundabout on Exeter Road (access to be considered)

### Reason item is being put before Committee

The Ward Member, given the number of objections received from residents, has requested that the application is considered by Committee



## **Recommendation – refusal for the following reasons:**

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of the safe design of roundabout access. As such the proposal is considered contrary to policies DP7 of the LDF and CS8 of the core strategy and paragraph 32 of the National Planning Policy Framework.
2. The information submitted does not adequately justify the current proposed levels and combination of Affordable Housing and s106 contributions, in particular the quantity of or contribution to employment provision. As such these are not considered sufficient to meet the requirements of Allocation I1, Policy AH2 of the Development Policies DPD and the SHDC review of the IVA and the guidance of the NPPF.

## **Key issues for consideration**

The application site is one of three parcels of land, each of similar size, that together form Allocation I1 of the Ivybridge Development Plan Document (DPD). Allocation I1 seeks to deliver mixed use development including up to 375 houses, including Affordable Housing (AH), with the over-arching objective to improve the sustainability / self-sufficiency of Ivybridge.

A key issue is the degree to which the proposed development meets an appropriate scope of the requirements of the DPD in its own right and whether permitting the development would compromise the ability to deliver the remaining requirements of the Allocation on the two other parcels of land.

There are a significant number of trees protected by TPO.

Some traffic accessing the site would pass through an Air Quality Management Area.

A more detailed consideration of the above, and other, matters is provided later in this Report, which concludes that whilst there are substantial social and economic benefits that would accrue from the development, the level of AH and s106 contributions is not sufficient and the viability information submitted to justify the proposed levels is not accepted.

## **Site description**

The site area is 10ha, including highway land, and comprises five agricultural fields that sit south of Ivybridge Railway Station and around, but not including, the Park and Ride facility; and one field that sits south of Exeter Road, adjacent to the Ivybridge Rugby Clubhouse, which is used as a paddock.

The site is approximately 1.5km east of the centre of Ivybridge.

Rutt Lane runs north to south at the centre of the northern part of the site. A field to the north of Exeter Road that is used by Ivybridge Rugby Club lies outside the site to the east.

The northern fields are broadly rectangular, fall gently from north to south and area enclosed by mature hedgerows and trees. Access is from Rutt Lane via farm gates.

The southern triangular field is predominantly flat and also enclosed by mature hedgerows and trees. The main access is from Exeter Road via farm gates.

On site designations are limited: there are a number of tree preservation orders affecting the site and it sits within the Ivybridge Critical Drainage Area.

The northern parts of the site have been identified as Grade 3a farmland and the southern field is grade 3b.

The site is separated from the Dartmoor National Park, which lies immediately to the north, by the railway line. The nearest Listed Buildings are Middle Filham (Grade II), which lies some 350 metres to the south; and structures at Stowford Mill, which is in the centre of Ivybridge.

## **The Proposal**

An outline planning application, with all matters except access reserved, for mixed use development of approximately 198 [no] dwellings; public open space; employment uses, including health care; neighbourhood centre, providing for small scale daily shopping; and a new roundabout on Exeter Road.

The application proposes, indicatively, 800m<sup>2</sup> floor space for shops (A1 use); and 4600m<sup>2</sup> floor space for light industrial / research and development / storage or distribution space (B1b, B1c and B8 uses). A residential institution (C2 use) would be provided and comprise 800 m<sup>2</sup> of floorspace; and the health centre 2000m<sup>2</sup> of floor space (D1 use). Land use is 6.6ha residential, 2.6ha employment and 0.6ha open space.

The application is for outline permission and as such the layout is illustrative only. Similarly, the precise nature of the B1 and B8 uses is not yet determined.

A Draft Heads of Terms accompanying the application sets out the proportion of Affordable Housing (AH) and other contributions. The amount is based on a Viability Assessment (VA) that was submitted by the applicant. The VA has been the subject of a review by a consultant, Levvel, on behalf of the Council. The review has not yet been completed in full at the time of writing this report, although an indication has been given that the proposal could viably afford to be accompanied by obligations closer to the policy requirements. This matter is critical to whether the application should or should not be approved and an update will be provided at the Development Management Committee Meeting. (Due to the need for the information to fully inform the recommendation and decision, Officers would have preferred to defer consideration by members of this application until September, however the applicant wished it heard in July.)

## **Consultation responses**

Full details of consultation responses are available on the website. The following is a summary of the key issues raised.

### **South Hams District Council (SHDC)**

**Drainage Engineer** in an email dated 11<sup>th</sup> February 2015 reports that South West Water (SWW) considers to be acceptable the principle of a combined highway and surface water discharge to the surface water sewer. The discharge would need to be at a controlled rate due to the location within the Ivybridge Critical Drainage Area (CDA). SWW would adopt the surface water system up to the standard of 1:100 year +30% (climate change). The Drainage Engineer also emphasises that the Environment Agency advises that the run off would need

to be limited to the 1:10 year Greenfield rate. Attenuation systems would need to be in accord with Best Practice SUDs and in the form of surface features such as swales or ponds. Oversized pipes and crate systems would not be acceptable since these do not address water quality issues.

To comply with the national standards for SUDS as set out by DEFRA the surface runoff should be managed at source, and also on the surface, to provide a cost effective and easily maintainable system for the life of the development. The scheme must also address water quality. If not, then evidence needs to be provided as to why this strategy is not being utilised.

### **Strategic Planning**

The Strategic Planning Officer provides a detailed response in the context of Allocation, '11. The key points of the response are summarised below and have been incorporated to the 'planning balance' discussion later in this Report.

The Officer notes that with two applications submitted across the allocation: this application, which seeks to deliver approximately 198 dwellings, and Barratt / David Wilson for 222 dwellings (57/1347/14/F); and a further application yet to come forward for the central parcel of land, housing provision would, if all three were permitted exceed the target of 375.

In addition to the DPD the Hannick application must be considered against the requirements of the NPPF. In particular with respect to the 5-year housing land supply the NPPF states that Councils need to 'boost significantly the supply of housing'. The cumulative impact of increased levels of residential development compared to the requirements of the Allocation will need to be considered. Of particular importance is the balance between housing and employment provision in the wider context of the Town.

The offer of 20% AH falls below the requirement of Policy AH2 of the Affordable Housing DPD; and the employment provision of 2.6 ha, which includes the medical centre, is below the pro-rata provision set out in Allocation I1.

The Officer notes that the development of the northern part of the Allocation must not be allowed to fetter the delivery of the remainder of the Allocation. A key issue in this respect is access and permeability throughout the whole Allocation area.

**The Ecology Officer** has undertaken a Habitats Regulations Assessment (HRA) Screening exercise, which concludes that the proposal is not considered to have a likely significant effect alone or in-combination with other developments or plans on a European site.

**The Natural Environment Resource Team** has made a comprehensive response that is incorporated into the section of the Report titled 'Environmental Dimension.' A key point to note is a requirement at the Reserved Matters stage a revision of layout will be required to incorporate a higher level of compensatory hedgerow and the provision of a revised Lighting Strategy that reflects requirements for to minimise impact on bats

The level of provision of on-site public open space and play is agreed in principle although off-site contributions for sports needs to be agreed. At Reserved Matters stage, full details of the public open spaces and play areas will need to be provided.

**The Environmental Health / Air Quality Officers** recommend a condition to limit the impact of lighting; a condition to safeguard against potential arsenic contamination and unsuspected contamination; a condition to ensure noise attenuation, including means of ventilation when windows are shut; and a condition / s106 Agreement clause to secure control and mitigation

of construction and operational phase emissions, notably PM<sub>10</sub> and NO<sub>2</sub>

The EHO has advised that whilst the predicted increase in vehicular emissions is considered to be 'slight adverse', the level of air pollution for 2016 may be slightly worse than has been modelled by the Council. The applicant has, however, adopted a worst case scenario for the modeling of traffic and consequent emissions. The conclusion is that this must be addressed through a Green Travel Plan and, for the construction phase, a Dust Management Plan.

### **Economic Development**

A specialist in Economic Development has provided useful background information from the South Hams Area Profile, which was published by Devon County Council in February 2014. The information has been incorporated into the planning analysis under the heading 'Economic Dimension' in this Report to DM Committee.

A key message from the economic forecasts is that the South Hams economy is forecast to experience significant growth in the period to 2025. Accordingly, the EDO emphasises the importance of delivering an appropriate level of employment land, possibly through an additional on or off site employment contribution dependant on legal advice and viability.

### **Devon County Council**

**Highways** After an initial objection by the Highway Authority the applicant has provided revised and further information. In a letter dated 15th June 2015, the Case Officer advises that matters other than the design of the roundabout have been resolved hence there is an outstanding objection from DCC Highways.

Key highway issues include provision for cyclists and pedestrians and safety in road design.

**The County Archaeology Officer** (Historic Environment Team) comments that having considered the detail of the application it is not likely that there would be a significant impact on known heritage assets. The formal response is no comment.

**The County Strategic Planning Children's Services**, in their response dated 22nd October 2014, states that primary schools have sufficient capacity for the expected number of pupils that development would create, but that Ivybridge Community College has a shortfall of capacity. DCC requests a contribution towards education transport and a contribution for additional school facilities.

### **South West Water (SWW)**

SWW has no objection subject to foul flows only being connected to the public foul sewer network.

### **Environment Agency**

In their representation dated 5th November 2014, the Environment Agency requests further information with respect to the management of surface water. As described above in the response from the Drainage Engineer of SHDC, this has now been resolved and can be controlled by condition.

### **Natural England (NE)**

NE, in their letter dated 18<sup>th</sup> November 2014, makes no objection. With respect to the Start

Point to Plymouth Sound & Eddystone Special Area of Conservation (SAC) NE notes that SHDC, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. The assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. This conclusion has been drawn having regard for the measures built into the proposal that seek to avoid all potential impacts. On the basis of information provided, NE concurs with this view. Similarly, NE confirms that it is not likely that there would be an adverse impact on Erme Estuary Site of Special Scientific Interest (SSSI), which lies 4.8km downstream of the proposed development.

### **Historic England (HE)**

HE has considered the application and makes a formal response of no comment.

### **Devon and Cornwall Police Liaison Officer**

In the response dated 4<sup>th</sup> November 2014, the Liaison Officer recognises that the application is outline and provides advice with respect to the development achieving the objectives of Secured by Design.

### **Devon and Somerset Fire and Rescue**

Fire and Rescue advises that the proposal will need to comply with the access provisions for emergency vehicles within the Building Regulations.

### **Network Rail (NR)**

In their representation dated 22<sup>nd</sup> December, NR seeks assurance that surface water drainage plans will not create additional surface water that could damage rail infrastructure.

In addition, NR requires the developer to provide trespass proof fencing and to manage vegetation adjacent to NR property. Buildings should not encroach within 2m of the boundary with NR property.

NR sets out criteria that need to be met / addressed in a Construction Management Plan and requests consideration of contributions to improving access to the park and ride facility.

### **Ugborough Parish Council (UPC)**

In their representation of 13<sup>th</sup> November UPC objects to the number of dwellings, suggesting a reduction to 150, with AH increased to 35%. UPC also comments that land should be retained to safeguard a future entrance from the Cross-in-Hand.

In a subsequent representation UPC comments that should a substantial increase in traffic through Wrangaton and Bittaford result from the development, the provision of pedestrian crossings in those villages should be considered.

### **Ivybridge Town Council (ITC)**

In their representations ITC expresses support for the proposed development with the following caveats, which are summarised:

- ... cap of 200 dwellings;
- ... there is a shortfall in employment land;
- ... on site open space should not be dominated by SUDS features;
- ... adequate open space and formal sport provision should be required / delivered



- ... through s106 contributions;
- ... the Neighbourhood Centre makes provision for space for voluntary groups;
- ... appropriately designed cycle routes and highway safety;
- ... access to Elizabeth Close to be pedestrian / cycle route only and not emergency vehicle access;
- ... transport provision is made in consultation with ITC;
- ... water run-off, SUDs and sewerage capacity to be agreed with the Environment Agency and SWW; and
- ... housing design should reflect the aspirations of the Princes Foundation document.

More specifically ITC expresses concern about the scope of the Jones Lang LeSalle Market Synopsis, which was submitted with the application. This matter is elaborated below under the heading 'Economic Dimension'. In this respect ITC emphasises that the need for employment in Ivybridge is heightened by the loss of 100 jobs at the Mill and that the opportunity provided by having been granted Assisted Area status in 2014 can help local business growth.

ITC recognises that the reduced level of employment provision might be acceptable if housing is limited to a maximum of 200 units and other contributions are secured.

ITC welcomes the provision of the health campus and accepts that the review of the IVA will determine an appropriate level of AH provision. The assisted living element is supported as the town is expected to have a huge increase in the numbers of over 65s.

## **Representations**

### Letters of Objection

At the time of writing this Report some 21 letters / emails of objection, these can be summarised as follows:

- ... no development should be allowed in Ivybridge until there is a new road access to the A38;
- ... additional traffic will cause increased congestion, pollution and noise;
- ... adverse impact on highway safety, including pedestrians and cyclists;
- ... cycleways and footpaths are not used as they are too dangerous;
- ... drainage infrastructure inadequate;
- ... no need for housing;
- ... density of housing is too high;
- ... lack of permeability / connectivity with existing development;
- ... insufficient proportion of Affordable Housing;
- ... no need for a health centre;
- ... existing health centre is in a more accessible location, which also supports the vitality of the town centre;
- ... no need for employment buildings;
- ... retain greenfields and use previously developed sites;
- ... adverse impact on wildlife;
- ... adverse impact on character;
- ... impact of light pollution, particularly on Dartmoor;
- ... no assurance regarding the nature of the industrial buildings;
- ... insufficient school capacity;
- ... insufficient leisure facilities in the area;
- ... opportunity to use / enhance park and ride land missed; and

... sets precedent for more development.

These matters are considered in the section of this Report titled 'Analysis'.

#### Letters of Support

At the time of writing this Report two expressions of support have been received.

Dr Jonathan Cope, GP Ivybridge Medical Practice has made a representation to emphasise the importance of the proposed healthcare improvements as one element of wider and significant opportunities in the local healthcare community; and that this aspect of the proposed development has 'enormous public support'.

A letter of general support, with no specific reasons given, has also been received.

### **Relevant Planning History**

None.

## **ANALYSIS**

### **Principle of Development**

This is an Outline Planning Application for mixed use development to be accessed from the Exeter Road (B3213) via Rutt Lane. The principle of development at the site is not in question since the site is one of three parcels of land that, together, comprise Allocation I1 of the 'Ivybridge DPD'.

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

The scale, nature and form of development is framed by Allocation I1 of the Ivybridge Allocations DPD.

### **Sustainable Development**

Paragraph 7 of the NPPF identifies three dimensions to sustainable development: economic, social and environmental and Paragraph 12 sets out twelve core planning principles that should underpin planning decisions. These two paragraphs set the context in which to consider sustainability. A consideration of these elements in the context of the Development Plan is set out below.

#### **The Economic Dimension**

Housing development is recognised as an important driver of economic growth. Firstly, economic benefits accrue to the construction industry from development; and, secondly, once dwellings are occupied there would be an increase in the level of disposable income from residents, which would be likely to be spent in the local area with some increase in the demand for local goods, services and facilities.

The applicant, in partnership with the other developers with an interest in Allocation I1, commissioned the 'Ivybridge Employment Land and Buildings Market Synopsis' by Jones Lang LaSalle. This document was produced at the request of the District Council to provide

evidence with respect to the degree to which the employment requirements of the Allocation could be met. The conclusion of that Report is that demand for new office and employment is not strong. The developer also considers that, accordingly, reducing the amount of employment land from 5ha to 2.6ha is also essential to maintain the offer of 20%AH with s106 Contributions, a matter that is discussed later in this analysis.

The degree to which provision should be reduced is disputed, however. Ivybridge Town Council (ITC) expresses concern that the Market Synopsis appears to be based on information about premises outside Ivybridge only and notes that there was no discussion with the Town Council, which could have advised that there is a need for small business premises since the Watermark units are full and ITC has a waiting list. The need for employment in Ivybridge is heightened by the recent closure of the paper Mill.

ITC notes that having been granted Assisted Area status in 2014, financial support is available to small businesses and large enterprises, with the aim being to encourage business to grow, helping to drive forward contribution to the UK economy of Plymouth and Devon.

ITC suggests that the reduced level of employment provision, from 5ha to 2.6ha and increased housing, from 100, might be acceptable if housing is limited to a maximum of 200 units and a contribution is made for a link road south of the A38, or a commuted sum towards employment to be located south of the town.

The Economic Specialist has commented that the scope for a greater proportion of employment land or financial contribution for off-site provision should be explored as part of the viability exercise, with the aim being to further aid the long-term prospects of economic growth and the overall attempt to improve the sustainability of the town; and emphasises that a key message from the economic forecasts is that the South Hams economy is predicted to experience significant growth to 2025.

The applicant claims in their VA that there is little, if any, profit to be made from the employment element of the development. Officers are mindful that a consistent approach is necessary for each application and that if reduced employment is accepted this must be informed by Viability Assessment. On the basis of an initial review by Levvel, it is the view of Officers that it would be possible to increase either the AH offer or the s106 contributions, or a combination of both. This could include an off site payment for employment provision elsewhere in the locality.

The application includes the provision of a neighbourhood centre and a new medical facility. This is considered to be appropriate as it will improve the overall sustainability of the eastern side of Ivybridge and would also provide facilities for the neighbouring settlement of Bittaford. These facilities would be accessible by car, bus, cycle or on foot.

The Ivybridge Retail Study, published in 2013, emphasises the importance of protecting the viability and vitality of the town centre. The proportion of retail to be provided is considered to complement and not compete with the town centre.

It is not considered to be appropriate to seek to use s106 contributions towards highway improvement / provision south of the A38. A key principle is, however, to ensure connectivity through the three parcels of land that comprise Allocation I1 and this is achieved.

Objectors have questioned why the opportunity has not been taken to improve and / or redevelop the Park and Ride area. Whilst this would be beneficial, the applicant does not

have control of the land and cannot, therefore, include this area. The proposed development is not considered to compromise the ability to redevelop the Park and Ride at a future date.

#### Economic Dimension Balance

Whilst there are clear positive economic impacts identified, the level of employment provision does not meet the level that is proportionally required by Allocation I1 for this parcel of the full area. The initial review of the VA by Levvels indicates that funds would be available to deliver a higher proportion of AH and / or a contribution for off-site employment provision, as such the proposal is not considered acceptable in this regard.

#### **The Social Dimension**

The provision of 198 homes to meet the need identified in Allocation I1 is considered to be a substantial benefit. Policy AH2 of the Development Management DPD, however, requires allocation sites to maximise the proportion of AH. The applicant has offered 20% of the 198 to be AH. The initial review of the VA indicates that the proportion could be higher.

Impact on existing Infrastructure, facilities and services:

Consideration has been given to the impact of development on infrastructure and services.

With respect to education Devon County Council has confirmed that a contribution towards the provision of secondary education is required; and that a contribution towards transport for primary education is required. An appropriate payment would be secured through a s106 Agreement.

Whilst the Highway Authority is generally content that the application delivers the necessary highway infrastructure, an objection has been maintained on the basis that the design of the roundabout does not achieve the appropriate safety standards. This is a material consideration since, whilst an outline application, the applicant seeks to agree highway matters. The applicant has been asked to clarify how the concerns of the Highway Authority can be addressed and their response will be verbally reported to Committee.

SWW, the Environment Agency and the Council Drainage Engineers emphasise the sensitivity of the site being in the Ivybridge Critical Drainage Area (ICDA). These bodies, as well as residents, have expressed concern about surface water run off. The Council's Drainage Engineer considers that on the basis of the Flood Risk Assessment submitted by the applicant, it will be possible to achieve appropriate means to address this. A condition is proposed requiring SUDs best practice. The Engineer also advises that at the Reserved Matters (RM) stage, if approved, a revised Drainage Plan would be required and that this could affect the layout, number and form of development.

The site is within walking distance of a good variety of services and facilities, including a bus route.

#### Impact on Neighbours

Concern has been expressed with regard to the potential impact of the employment uses in the southern part of the site on existing properties to the east of the site area. The illustrative layout shows substantial screening and that there is an appropriate distance between the proposed buildings and the existing such that the form of development would not have an unacceptable impact. In this respect, it should be noted that this is an outline application and this matter would, if approved, require careful scrutiny at the RM stage.

The noise impact on new housing of the railway is a matter that has been considered by the Council's Engineer. Mechanical Heat Ventilation Recovery is proposed and this addresses the matter with respect to internal noise. Further measures to minimise the external impact would need to be considered at RM stage, if the application was approved.

The potential impact of new dwellings has been considered at the western boundary on existing properties on and between Butterdon Walk and Elizabeth Close. The illustrative layout shows an appropriate level of tree and hedgerow screening and there is an appropriate distance between the proposed buildings and the existing such that the form of development would not have an unacceptable impact. This would need to be scrutinised and the positioning of other forms of garden enclosure considered such that there would be no unacceptable impact on the residential amenity of the neighbouring dwellings (as well as unacceptable loss of trees).

The density of development at approximately 30 dwellings per hectare is acceptable.

Existing residents would benefit from newly created foot and cycle access to the site.

The concerns of the natural environment specialists can be addressed through the detail of the Landscape and Ecological Management Plan (LEMP), which would be a condition should permission be granted.

#### Social Dimension Balance

The balance of the social dimension of sustainable development is that the proposed development would deliver benefits and that there is no harm identified with respect to other planning matters.

However, on allocated sites in Ivybridge the Affordable Housing DPD Policy AH2 requires the delivery of 55% AH. In the context of the NPPF it is appropriate to consider the level of AH through Viability Assessment. The applicant has submitted a viability assessment and has agreed to 20% AH. This is below what the Council would expect to be delivered on a mixed-use site of this nature. The VA is being verified and reviewed by Levvels on behalf of the Council. At the time of writing the level of AH and s106 Agreements are considered to be too low and unjustified.

Negotiation is ongoing with the applicant and the position in this respect will be reported to the DMC Meeting.

#### **The Environmental Dimension**

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on air quality, biodiversity and surface water drainage.

#### Landscape Impact

The application is supported by a Landscape and Visual Impact Assessment. This demonstrates that the illustrative / outline proposal would not have an adverse impact on the AONB; and provides the basis for a LEMP, which would be required at the RM stage.

#### Heritage, character and visual impact

There are no heritage buildings or assets within the vicinity of the site and the setting of Middle Filham, a Grade II Listed Building some 350m to the south, would not be affected.

With respect to the test of paragraph 126 of the NPPF and of s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is considered, therefore, that there would no impact.

The site is generally well screened by mature trees and hedgerows. The removal of these on the north and south side of Exeter Road, and the provision of a roundabout and new buildings would change the character of the setting. Whilst it is considered that the illustrative layout indicates that an appropriately well laid out and designed development can be achieved, this would be a key matter to consider at the RM stage.

The potential impact on existing dwellings has been considered above in the section titled 'Impact on Neighbours'.

At the RM stage it would be important to ensure that layout, form and design will be appropriate given the setting at the urban edge and proximity of the National Park. With respect to the latter, an element of the Lighting Strategy will need to address light spill into the land north of the railway.

#### Biodiversity

The site comprised improved grazing pasture of limited ecological value, with the fields bounded by predominantly species-rich hedgerows. An Ecological Survey has been submitted and this is informed by Bat Activity, Dormice and Reptile Survey Reports.

Dormice have not been recorded. It was evident, however, that a number of the hedgerows were well-used for foraging and commuting for common bat species.

The natural environment specialists have expressed concern with respect to the amount of hedgerows of 'highest ecological value' proposed for removal and that the proposed compensation, some 480m, is not sufficient. Since it is not clear what the Landscape Green Corridor will comprise and how useful this will be as a wildlife corridor, the proposed compensatory hedgerow is considered to be insufficient. A multiplier of 3 would be considered appropriate (Defra Technical Paper: proposed metric for the biodiversity offsetting pilot in England, 2011). Accordingly, some 1400m of new native species hedgerow should be expected.

The natural environment specialists note that a sensitive lighting scheme is proposed across the site, however, it is also noted that it is unlikely to be possible to retain effect east-west and north-south dark corridors (for foraging and commuting bats) across the site (even at the boundaries). While parts of key hedgerows are bordered by residential gardens, some back directly onto dwellings which are likely to result in light spillage.

No objection is raised in respect of the above two matters, but a recommendation is made that, if approved, a condition be imposed to require revision of layout at the RM stage to incorporate a higher level of compensatory hedgerow, including hedgerow which can be effectively maintained (remaining in public management) for wildlife. It is noted that this could impact on the developable footprint.

In addition, a condition is recommended to require the provision of a Lighting Strategy at the RM stage reflecting requirements for to minimise impact on bats.

A Landscape and Ecological Management Plan would also be a requirement at the RM stage.

With respect to off-site biodiversity a Habitats Regulations Appraisal Screening has been undertaken for this proposed development (final copy dated 27th November 2014). The HRA Screening has been reviewed and endorsed by Natural England (consultation response dated 18th November 2014, references 136912) and concludes that the proposal is not considered to have a likely significant effect alone or in-combination with other developments or plans on a European site.

If permission were granted a s106 contribution is required to minimise the recreational risks, as identified within the Tamar Estuaries Management Plan 2013-2018, such that the reduced effects on the European Marine Site would be negligible.

With respect to open space, formal play and sports requirements of Allocation I1 indicate that the pro-rata (for this parcel of land) provision should be higher.

Similarly, and although there is not a current waiting list for allotments in Ivybridge, it is considered that the addition of 198 dwellings will result in an increase in demand. The possibility of an off-site contribution for allotment provision has been discussed with the applicant and it is concluded that this is not appropriate given the priority to secure additional AH and employment provision.

Surface Water Drainage / Flood Risk have been considered in the preceding section, the Social Dimension.

#### Air Quality

The Western Road Air Quality Management Area lies to the west of the application and some vehicles leaving or accessing the site would pass through. The Transport Assessment finds, however, that the impact would be negligible in terms of additional emissions; and that with contributions to and direct provision to improve cycle and walkways the EHO has advised that the impact is considered to be 'slight adverse'. The conclusion is that this must be addressed through a Green Travel Plan and, for the construction phase, a Dust Management Plan.

#### Environmental dimension balance

No significantly adverse impacts have been identified and as such the proposal is acceptable with conditions in this regard.

#### **Sustainable development conclusion**

In terms of the economic and social dimensions of sustainable development, it is considered that there are benefits from the proposed development, but that the proportion of Affordable Housing is insufficient to meet the requirements of Allocation I1 and has not been justified by the IVA. The initial review of the IVA indicates that money would be available to increase the AH offer and / or make payment towards off site employment provision, which would contribute to the sustainability of Ivybridge.

The priority of the NPPF to 'boost significantly the supply of housing' is noted and must carry substantial weight in determination of the application. On balance, however, the application does not meet the tests of sustainable development.

## **Other matters**

### Public Opinion

The Council is mindful of the content of the Localism Act 2011. The objections raised in respect of this application have been carefully and objectively taken into account in forming a recommendation to Committee.

### Consultation

The applicant has provided a detailed account of engagement with the Community in a 'Consultation Statement'. Consultation began with the Development Plan process and has progressed through the preparation of a 'Community Plan', led by the Princes' Foundation and other public engagement, culminating in consultation on the planning application.

### Land ownership

The Council has no evidence to suggest that there are any land ownership issues that would prevent the development in its current form being implemented.

## **The Planning Balance and Conclusion**

The application seeks to deliver a mixed use development comprising:

- ... 6.6 hectares of residential;
- ... 2.6 hectares of employment; and
- ... 0.6 hectares of open space

There is also provision for cycle and footpaths to the town centre and joining the national cycle route; and measures to improve bus services at this location next to the park and ride.

This compares with a policy requirement, which also relates to two further similar sized parcels of land:

- ... about 100 dwellings and about 5 hectares of employment land by 2016;
- ... beyond 2016, about 275 dwellings and about 5 hectares of employment land;
- ... a local neighbourhood centre providing for small scale daily shopping and community needs;
- ... provision for retention, maintenance and development of the park and ride and operations in association with the railway station;
- ... about 0.6 ha of play provision and 1.3 ha of other public space;
- ... contribution to the development of the town as a sports and leisure hub;
- ... strategic landscaping measures to address the site's scale and location;
- ... cycle and footpath provision including enhanced access to the town centre;
- ... measures to mitigate impact on the Western Road Air Quality Management Area; and
- ... retention of the Rugby Club on its existing site with any reordering of facilities only acceptable if it results in improvement to club facilities.

The principle behind Allocation I1 is to improve the self-containment and overall sustainability of the town and the application goes some way to achieving this.

The combination of AH and s106 contributions is not, however, considered sufficient to meet the requirements of Allocation I1 and Policy AH2 of the Development Policies DPD; and the SHDC review of the VA indicates that an increased offer is viable.

With two applications submitted across the allocation: this application, which seeks to deliver approximately 198 dwellings; Barratt / David Wilson for 222 dwellings; and a further



application yet to come forward for the central parcel of land, the housing provision would, if all three were permitted exceed the target of 375, perhaps by as much as 60%.

It is considered that the proposal does not satisfy the three dimensions of sustainable development. In the balance of sustainability and in the absence of an appropriate level of AH / s106 contributions (including increased provision for employment land); and in the absence of a clear indication that highway safety concerns can be addressed it is appropriate to recommend refusal of the planning application.

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

## **Planning Policy**

National Planning Policy Framework

Paragraphs 6 -10; 11; 12; 14; 17; 28; 34; 36; 38; 47; 49; 50 112; 115; 118; 120 & 124

SHDC Core Strategy Policy CS10, NERC Act 2006, NNPF Para 118, Conservation of Habitats and Species Regulations 2010

South Hams LDF Core Strategy

CS1 Location of Development

CS2 Housing Provision

CS6 Affordable Housing

CS7 Design

CS8 Affordable Housing

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

DP8 Open Space, Sport and Recreation

DP9 Local Facilities

DP11 Housing Mix and Tenure

DP15 Development in the Countryside

Affordable Housing DPD

AH1 Affordable Housing Provision

AH3 Provision on unallocated sites

AH4 Mix and tenure of affordable housing

Open Space, Sport and Recreation DPD

South Devon AONB Management Plan

Conservation of Habitats and Species Regulations 2010

National Environment and Rural Communities Act 2006

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:** Mr Patrick Whymer

**Parish:** Modbury

**Application Nos:** 35/0059/15/F & 35/0465/15/F

**Agent/Applicant:**  
Barton Willmore Ltd  
101 Victoria Street  
Bristol  
BS1 6PU

**Applicant:**  
Bloor Homes  
Mr P Talbot  
c/o agent

### 35/0059/15/F

**Site Address:** Proposed Development Site at SX 655 518, West of Palm Cross Green, Church Street, Modbury

**Development:** Mixed use development on land for erection B1 use building, 93 dwellings, roads, footways and strategic landscaping

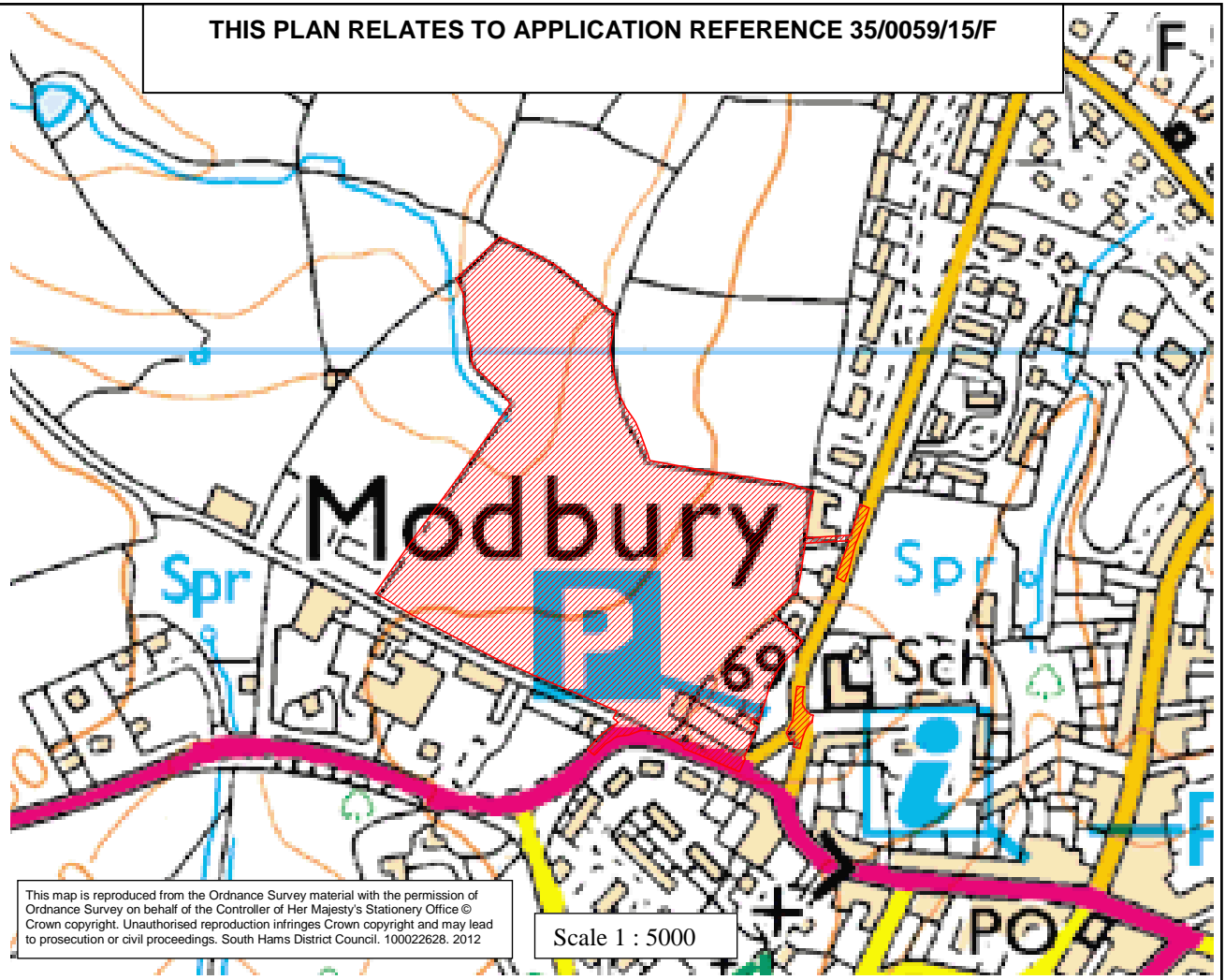
### 35/0465/15/F

**Site Address:** Car park, Palm Cross, Modbury

**Development:** Creation of car park and landscaped area of public open space, associated with adjoining development of 93 dwellings and B1 use building

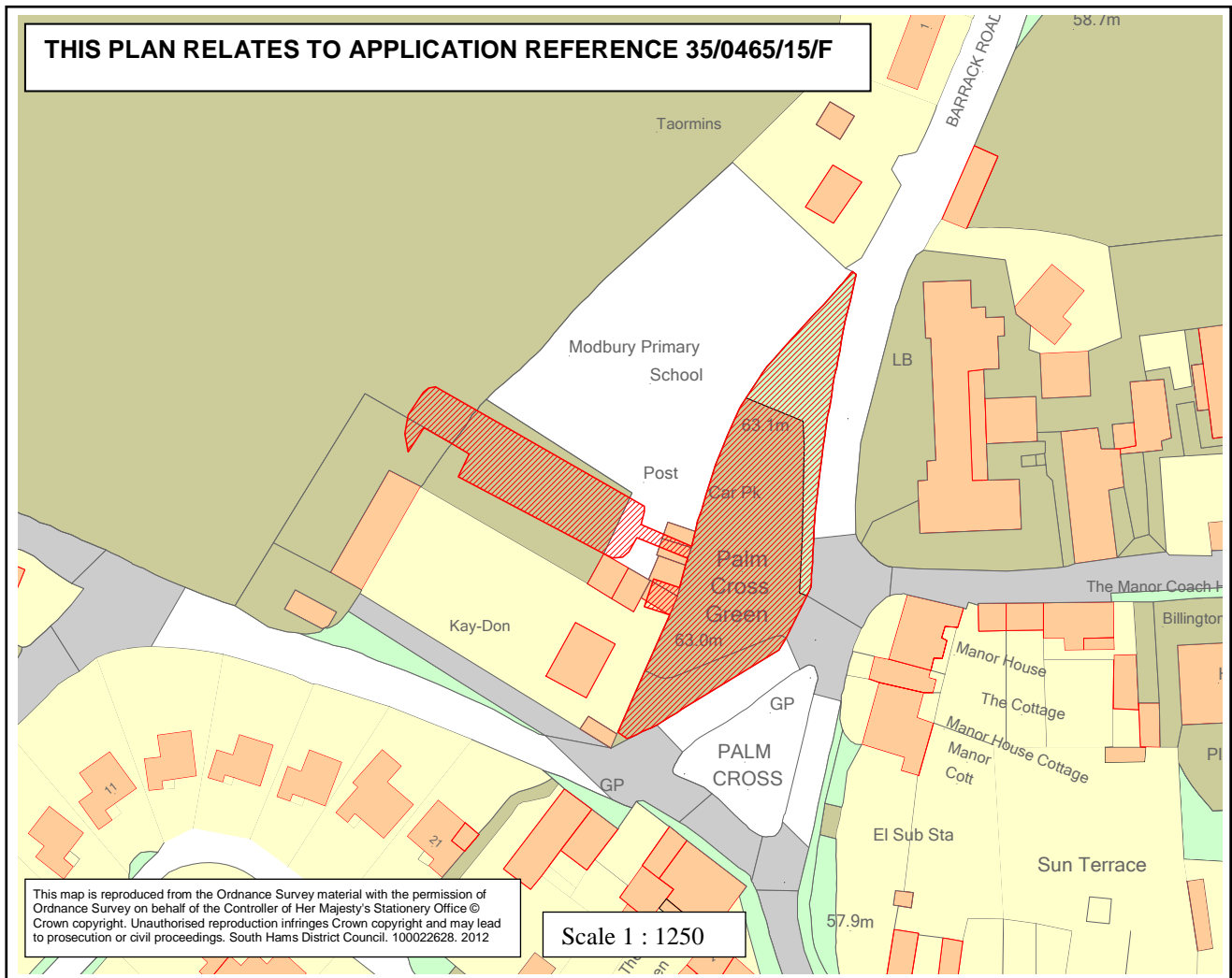
**Reason items are being put before Committee:** Mindful of the objections and concerns raised by the Parish Council & third parties it is considered appropriate for the merits of this proposal to be considered by the Development Management Committee following a site inspection. Whilst the applications are separate given the clear links between the two it is considered appropriate to consider the applications together.

THIS PLAN RELATES TO APPLICATION REFERENCE 35/0059/15/F



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Scale 1 : 5000



**Recommendation:**

35/0465/15/F - Conditional approval subject to the following conditions:

1. Standard time for commencement
2. Completion in accordance with the approved plans
3. Surface water drainage
4. Landscape planting and management scheme
5. Details of hardsurfacing.

35/0059/15/F – delegate to CoP Lead for Development Management to grant, subject to:

- the additional works requested by the Natural Environment and Recreation Team
- the submission of plans detailing the satisfactory treatment of the area between the employment building and the main road and
- the prior satisfactory completion of a S106 Agreement dealing with:

1. Affordable Housing – 30% of the dwellings to be affordable (70% affordable rent/30% intermediate. To be completed and available for occupation before the 50<sup>th</sup> market dwelling is occupied.

2. Play provision – provision of a locally equipped area of play (LEAP) before the 50<sup>th</sup> dwelling is completed.
3. Education contribution - £243,517.35
4. School Transport contribution - £ 40,432.00
5. Public open space and SUDS – developer to implement an approved scheme with future maintenance and management, including securing public access in perpetuity to the open space.
6. Securing a LEMP providing full detail of the public open spaces, including on-going management and maintenance in perpetuity
7. Sport and recreation contribution to be used towards the provision of sport and recreation facilities off-site
8. Sustainable travel Vouchers - £250 per household in respect of public transport provision and £50 per household in respect of cycle provision.
9. Travel pack.
10. Setting up Management Company
11. Provision of employment building/land
12. Securing further details regarding the allotment land including details of structures, parking, phasing and allocation.
13. Provision of car parking spaces for the community if the landscaping of the existing car parking area takes place.

**Note**

This application is a Departure from adopted Development Plan policies and therefore has been advertised as such

**Subject to the following conditions:**

1. Standard time period for commencement
2. Landscape scheme and implementation
3. Tree/Hedge protection
4. Surface Water Drainage
5. Construction method statement and management plan
6. Development to be completed in accordance with a road and footpath phasing plan
7. Highway works to be completed in accordance with approved details to be submitted to the LPA
8. Parking and Turning details(Residential)
9. Provision of parking (Employment building)
10. Restriction of use for employment building
11. Removal of P for employment building
12. Submission of a stage 2 safety audit
13. Car parking strategy
14. Details of retaining walls/structures
15. Submission of boundary treatments.
16. Development to be undertaken in accordance with the mitigation measures contained within the noise assessment.
17. Measures to be undertaken to address the identified contamination
18. Details of provision of Swift and Barn owl nest boxes.
19. Full details of surface water drainage system including percolation testing
20. Submission of Surface Water drainage details during construction.
21. Sewage disposal details
22. Lifetime homes
23. Use of employment units.
24. Lighting scheme

25. No development to commence until a scheme has been provided to and approved in writing by the LPA setting out the details, including construction details, of a footpath to be provided from the development to the public highway at the Palm Cross to the east of the site. The footpath must be installed, in accordance with the approved details prior to the occupation of any of the dwellings hereby approved or the occupation of the employment building,

**Key issues for consideration:**

Given that this proposal includes an area of land outside the allocated site outside the development boundary it is considered that, taking into account paragraph 49 of the NPPF, the initial issue to be considered is whether South Hams District Council can demonstrate a five year housing land supply. If a five year housing land supply cannot be demonstrated, relevant planning policies for the supply of housing should not be considered up-to-date and the key issue is whether the proposal represents sustainable development and if it is, whether there are significant and demonstrable adverse impacts that would outweigh its benefits.

Given the issues that have been raised in connection with the application, the potential adverse impacts on the following matters to be considered:

- Provision of housing
- Traffic & Access
- Landscape
- Neighbouring development
- Heritage

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

It is estimated that this development has the potential to attract New Homes Bonus of about £96,000 per annum, payable for a period of 6 years. 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.

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**Site Description:**

The main application site (ref 35/0059/15/F) is an open field on the north western edge of the town of Modbury. The smaller, and adjoining, site comprises of a small car park fronting Barracks Road.

Modbury is an attractive small market town with a strong and vibrant local community. It is designated within the Council's planning policies as a Local Centre; recognising the important role it has to play in serving residents of the town, surrounding communities and visitors to the area. It offers a range of day to day shopping and community facilities, including a primary school, health centre, fire station and community hall (the Memorial Hall). The town also contains a range of offices, light industrial units and art and craft workshops.

All of Modbury to the south of the A379 is within the Area of Outstanding Natural Beauty (AONB) and within the setting of Dartmoor National Park. A significant part of the town is designated as a Conservation Area and a Conservation Area Appraisal has been formally adopted by the Council.

The Rural Areas DPD identifies the key Local Issues for the town, as documented in a number of sources, including the Modbury Parish Plan (2007), as:

- Traffic and parking problems;
- A lack of affordable housing; and
- The need to provide a town square.

The allocation of development sites RA1 and RA2 is meant to address these issues. RA1 is to provide the bulk of the new housing, whereas RA2 is create town square and commercial facilities.

### **The Proposal:**

Two planning applications were submitted for land at Palm Cross Green. They are for adjoining sites and are interdependent, in that they are linked by the allocation policy RA1. Nevertheless, neither relies entirely on the other. They have both been submitted by Bloor Homes, because there is a desire for a comprehensive approach to the development. They are separate because of land ownership issues and thus the extent of control Bloor Homes has over what happens on the land.

The main application (0059/15) proposes a mixed use development, including erection of a B1 use building, 93 dwellings, roads, footways and strategic landscaping. The smaller application (0465/15) is for creation of car park and landscaped area of public open space.

The dwellings are primarily two storey and two storey with rooms in the roofspace, there are a small number of three storey blocks mixed within the proposal. The external finish of the dwellings is a mixture of materials found in use in the locality under slate roofs. The proposed commercial building has a more contemporary design and is primarily single storey with a two storey element.

### **Consultations:**

- **SHDC Environmental Health:** No objection, but note the need for an acoustic fence and for some remediation for a pocket of contaminated land.
- **SHDC Drainage** – No Objections conditions requested
- **SHDC Natural Environment and Recreation Team:**
  - Biodiversity** - No Objection subject to the inclusion of a permanent Barn Owl Box within a dwelling facing the open countryside and an increase in the number of inbuilt swift boxes from 20 to 60.
  - OSSR/Green Infrastructure:** The level of provision of public open space is agreed in principle. Further discussion over the location of play provision is required and off-site contributions for sports need to be agreed and sought within the Section 106. Further discussion regarding the potential use of the green lane to the south of the site and potential for an off-site contribution for footpaths are sought. Provision of full details of the public open spaces and allotments will need to be secured by planning condition/s106 agreement. No Objections subject to the agreement on the location and design of play provision, securing a LEMP, securing public access to the public open space, securing a contribution for off-site sports and securing further details regarding the allotment land.
  - Landscape Character and Visual Impact** - Consideration has been given to conserving the landscape character, with appropriate mitigation, through the design



stages. The full field has been incorporated into the development with a central 'green corridor' extending through the site to the lower section where 'open space' is proposed. This provides an opportunity for planting to further enhance the existing retained tree stock around the perimeter. The scheme extends beyond the allocation boundary although the significant built elements remain on the upper parts, adjacent to the existing urban edge of Modbury village. There are reasonable levels of existing vegetation which are retained and mitigate the built forms of the residential and employment areas.

The points around the road widening are of particular importance and clearly these works to the highway at the current main access route into Modbury will have an adverse impact on the existing character. Providing the boundaries are sensitively designed and importance placed on retaining similar materials etc is agreed by condition, then a reasonable outcome can be achieved. It will however, remain as a moderate adverse impact.

The LVIA identifies the level of effects for both landscape character and visual impact as minor adverse. Officers broadly concur with this appraisal and on this basis, no objection is raised

**Protected Landscape** - The development proposals are on land outside the South Devon AONB but within the setting. Due consideration has been given to the SD AONB Management Plan (2014 – 2019); it is the officers view that given the limited inter-visibility between the allocated site and the SD AONB to the south, the overall strategy to protect the special qualities of the designation are not compromised. The comments of the SD AONB Unit are also noted.

**Arboricultural Impact** - The submitted Constraints Plans are noted and identify trees around the perimeter of the development site. This information is limited and will require significantly greater details including the submission of an Arboricultural Impact Assessment with tree report, Tree Protection Plans and Arboricultural Method Statements shall be secured by condition.

**Landscape Planting Scheme** - The *Landscape Strategy Plan (NPA 10724 301 Rev P1)* is noted and establishes a sound approach to creating usable public open space which integrates with the residential areas. This will require further refinement through detailed design, whilst also noting the *Planting Schedule (NPA 10724 550 Rev P1)*. The Landscape Management and Maintenance Plan, and the Planting Schedule are noted and will need to be brought into line with an overall Landscape and Ecological Management Plan to ensure compatibility across the two.

**Recommendation** – No Objections subject to conditions and S106 Clauses.

**SHDC – Conservation** - In considering this application and assessing potential impacts of the development proposal against surrounding heritage assets the following policies, principles, guidance and recent case law have been considered:

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, Section 12 of the NPPF including paragraphs; 128, 129, 132, 133, & 134. The National Planning Practice Guidance (NPPG) particularly the Section: Conserving and

Enhancing the Historic Environment. The 2011 English Heritage publication: *The Setting of Heritage Assets*. Recent Case Law in particular the *East Northamptonshire DC v. Secretary of State for Communities and Local Government* (known as the 'Barnwell Manor' case) and *R. (on the application of (1) The Forge Field Society (2) Martin Barraud (3) Robert Rees) v Sevenoaks District Council* [2014] EWHC 1895.

The application seeks consent for the construction of approximately 93 new dwellings offering a mixed tenure together with B1 use building and extensive landscaping.

The heritage assets most likely to be affected by the development are:

### **Modbury Conservation Area – updated and extended 2002**

**Manor House** –is grade II listed, with 16<sup>th</sup> and 17<sup>th</sup> century origins – possibly a hall house and much altered in the 18<sup>th</sup> and 19<sup>th</sup> centuries. The dwelling is 2 storey, with white painted walls and its steep slate roof with simple dormer window on the upper floor. The house faces west towards the development site (currently the town car park which is unattractive in appearance, particularly filled with cars) and has its own garden in front, surrounded by low garden walls..

**Manor Cottage** –is grade II listed, as group value with Manor House, with possibly 16<sup>th</sup> or 17<sup>th</sup> century or origins and much altered in the 18<sup>th</sup> and 19<sup>th</sup> centuries. It is to be noted that its elevational treatment has been compromised by the insertion of uPVC windows of inappropriate style to the front elevation facing west towards the development site. These were in place at the date of listing in 1990. This cottage is set back from the principal facade of Manor House itself, with garden in front. It is of painted stone walls with a mix of slate and man-made roofing materials.

The siting of the new development, just off the busy A379 road, and at the top of the village to the west means that most of the development falls away to the north and west and it does not have a significant impact on the listed buildings. The upper part of the grade I listed Church of St George and its spire is also visible from the eastern part of the site where it is more open but there is no significant impact. A carefully designed development in this position, which is principally residential, and working with the topography, is not likely to have an adverse impact on the listed buildings or their settings.

The applicant has also addressed the adjacency of the site to the Conservation Area in the proposals and the palette of colours and materials for the dwellings has been well researched. The retention of the small single-storey historic but not listed building, facing east - (former fire station) is welcomed and the whole of the main axis of the development centres on this building and is landscaped away to the west and is orientated to the east towards Manor House and Manor Cottage

Therefore the main built environment of the proposed development does not impinge on these important historic buildings. With regard to the impact on the wider Conservation Area there is already newer housing to the north of the site and to the south of the site- south of the A394.

In summary, the proposed development is unlikely to offer a harmful impact on nearby heritage assets – buildings and Conservation Area or their settings and as such there is no reason to raise an objection from a Conservation perspective.

- **Highway Authority:** Accepts the principle of development in this location, refusal was initially recommended for the main site due to the lack of suitable pedestrian facilities. However, meetings have been held subsequently amended plans were provided and changes agreed in principle. Modified formal comments are awaited.

With regard to the existing car parking area, the Highway Authority has expressed concern about uncertainty over the footpath connections relating to land ownership. A footpath is proposed across this area from the main site which will be the subject of a S228 Agreement under the Highways Act that will formally adopt the path to ensure its retention in perpetuity. On the basis that a revised plan setting out the line of the footpath is received the Highway Authority is likely to provide revised comments and withdraw the objection to the main application.

- **Devon Archaeology Unit:** No objection.
- **Devon Strategic Planning Children's Services:** No objection, but require a developer contribution towards facilities at Ivybridge Community College of £243,517.63, and travel to school of £40,432 plus legal costs of working on the sec.106 agreement in the order of £500.
- **Building Control:** No objection
- **Natural England :** No objections assuming mitigation strategy is adopted.
- **English heritage:** No comments
- **Police Liaison:** No objection in principle, but detailed comments made .
- **Modbury Town Council.** Recommends refusal for the main application for the following reasons:
  1. The application does not conform with the allocation RA1 in the Rural Areas Site Allocation DPD of 2011.
  2. The application does not address the local aspiration for a link road between Coopers Corner and Barracks Road.
  3. Should the decision be made not to include a link road MPC has serious concerns regarding the siting of the proposed access on sharp bends and conflicting with access to the private house and green lane on the corner. A full roundabout would be a better solution.
  4. Provision should be made for pedestrian access to the industrial estate.
  5. Bus stops are essential at the top of the town; these have been removed from the original plans and should be replaced.
  6. Provision for cyclists and pedestrians at the main entrance was stipulate dby SHDC and this has not been provided.
  7. The traffic calming solutions in front of the school and at Palm Cross are not considered sufficient or safe.
  8. Barracks Road is described in the Design and Access Statement as a rural lane. It is the B3207 to Dartmouth, Totnes and the A38 and is a busy road.
  9. The plan does not fulfil the criteria set by SHDC regarding the employment land.

10. MPC recommends the employment use be placed next to the existing employment site.
  11. If an employment building remains as part of the development it should be removed to the area of the site next to the industrial estate. The proposed site for the building is a prominent location and should be used for suitably designed housing for older people.
  12. MPC recommends retention and repair of the original wall with rebuilding for the part of the wall to be removed for the visibility splay.
  13. If the employment building is retained in the proposed location MPC recommends that it is redesigned to have a more pleasing visual impact. The site is adjacent to the Conservation Area and surrounded by listed buildings.
  14. The total number of houses should revert to 80 whilst retaining 27 for affordable.
  15. There is demand for low cost homes to buy rather than shared ownership, for local young people, this is included in the plans.
  16. MPC recommends that some garages are redesigned as car ports to encourage parking on the house site and alleviate parking pressures on the streets.
  17. MPC recommends that rather than charge the residents for all of the maintenance of space that will be enjoyed by the whole of the town, 20 years of maintenance money should be built into the S106 for the management company to administer.
  18. The allotments be moved down to near the area currently allocated for the affordable homes beside the employment land and that the affordable homes be moved elsewhere.
  19. MPC proposes that the allotments be passed to MPC.
  20. MPC queries what plans are for the derelict buildings currently lining the emergency access lane.
- MPC recommend that the main application cannot be approved if the car park and POS application is not also approved.

- **Modbury Town Council.** Recommends refusal for the application for the creation of car park and landscaped area of public open space for following reasons:
  1. MPC consider they own the land upon which the development is proposed. The land is a vital element in ensuring that the new development is integrated with the town and the council continues to support the use of this land by the developers subject to certain conditions.
  2. The Council is disappointed that little is being proposed to enhance the land despite it being in a conservation area and acting as a gateway between the existing town settlement and the development.
  3. This application and the main application need to be considered together.
  4. The plans lack detail and there is insufficient information, in particular regarding engineering work. There are no plans showing the pedestrian access onto Barracks Road nor how pedestrian access across the green is being managed apart from spreading 40mm of gravel over the site. This is considered insufficient for the amount of pedestrian traffic to be expected from the development, a defined pathway should be provided.
  5. SHDC policy states that 0.15 hectares of play area must be provided in the RA1 development and none is shown within the main RA1 application, the proposal for a play area on the green should be endorsed by SHDC. The play area should be fully equipped by the developers at their cost. MPC require sight of

the detail for the creation of a safe, fenced paly area, in addition confirmation that there will only be pedestrian access across the green

6. MPC expects to take ownership of the 30 new parking spaces immediately within the main RA1 development and to have first option for the management of the same. Furthermore MPC expects there to be a sum for the maintenance of the car park for its first 25 years enshrined in the Section 106.

- **Environment Agency:** Consider the proposal will be acceptable if a condition is included on the planning permission to ensure the construction and maintenance of a sustainable drainage system to control surface water.
- **AONB Unit:** No objection
- **South West Water:** No objection, providing the foul flows are discharged to the public sewer at the junction of Benedict Way and Church Lane.
- **Barn Owl Trust:** No objection, but recommends enhancement of barn owl habitat through creation of suitable grassland in the central open space.
- **RSPB:** No objection

#### **Representations: Letters of Objection.**

At the time of writing this report some 64 letters/emails have been received and are available on the website for perusal, some 47 of the representations have raised objections to one or both of the applications, 8 have been in support and 9 have offered comments.

In no particular order the objections can be summarised as follows:

- The need for such a large development is unproven and unsupported by any market research or needs assessment. There are a number of dwellings on the applicants Loddiswell site that remain unsold.
- The need for new homes in the area will be satisfied by new developments at Ermington, Loddiswell, Churchstow, Kingsbridge, West Alvington, Yealmpton, Brixton, Totnes and Dartington whilst the new development at Sherford will satisfy the needs of the South Hams for years to come.
- The number of houses proposed exceeds the total previous allocated.
- The site is unsuitable and outside the community envelope, based on green fields and not brown field land it is an unsustainable location.
- Access is via a dangerous road junction at the crest of a hill and a sharp bend where traffic frequently queue.
- This will destroy the unique historic town.
- The local facilities cannot support the increased number of residents.
- All new housing should be located near an economic hub, such as sherford being closer to Plymouth.
- Insufficient parking provision.
- The affordable houses are grouped together not mixed within the site.

- The development will add to the parking problems in the Town.
- Can the drainage system cope with the additional sewage and surface water run off.
- The application pre-empts the neighbourhood plan.
- 56 new houses have already been built in Modbury in the last decade.
- It is within the AONB
- The proposal for a link road from Coopers Corner to Barrack Lane must be re-instated.
- The commercial building is too large and poorly designed in a prominent location at the entrance to the Town.
- Not enough affordable housing.
- The development would be visible from the National Park
- The roads in the development should be wider to accommodate parking.
- The roads in the development should be narrower shared surfaces with pedestrians.
- This will destroy the unique and historic entrance into the town.
- No provision for suitable pedestrian access.
- Lack of bus stop provision which was originally shown but highways objected a new location should be found.
- Impact on Grade 1 church and conservation area.
- The car park land does not belong to the Parish Council and as such should never have been put forward for development.
- Parking is difficult in Modbury and the existing car parking area gives much needed free parking and transit point for people who live in, work in an visit Modbury as well as a pick up and drop off point for the School.
- A listed wall will be demolished.
- The replacement parking would not be free.
- There has been a lack of transparency, openness and accountability from the Parish to the people of Modbury.
- Following a meeting in 2010 the Parish Council advised that the car park would not be available for development without further dialogue and a referendum, this has not happened.

In no particular order the supporting comments can be summarised as follows:

- Modbury desperately needs affordable housing so that the young people can remain and live within the area they are from.
- Impressed with the design and open spaces.
- Shared path to Barrack Road is welcomed.
- Extra residents will increase trade in the local businesses.
- The Parish Plan in 2007 established that 52 people needed a starter home in the next 5 years.
- The safety audit has found the development safe.
- Bloor Homes have conducted several meetings over many months and the plans have taken into account representations made by various individuals and groups.

### **Relevant Planning History**

The main application site has not been used for anything other than agriculture as part of a larger farming enterprise. As the site has been formally allocated since 2011, and has been

mooted as a possible building site for quite a while longer. There has been continuing interest in bringing it forward for development.

In 2012, this interest culminated in a masterplan being prepared by Fuse Architecture (Totnes) for the land owners, in conjunction with the developers Zero C Holdings Ltd (Dorchester) and the local community. However, when the land was eventually offered to the market, Bloor Homes (South West) Ltd were the chosen developer and these applications are the product of the work undertaken over the last year or so.

The overall RA1 allocation comprises a number of distinctly different areas with their own character. These are the:

- The field, which comprises most of the developable area;
- The land utilised as informal parking fronting onto Palm Cross Green;
- Residential garden land that links the above and;
- Other residential land (Kaydon) that lies outside the allocation that has been acquired to provide vehicular access to the main site..

Each of these has its own planning history, but most of this is over 20 years old, so there are no extant permissions. The work undertaken in 2012 did not culminate in a planning application. The only two relatively recent applications relate to works to trees within the Parish land. These are recorded as follows:

#### **Basic Application Details for 35/2435/08/TCA**

Application Description:

Fell 3 Ash and 1 Sycamore

Application Address: Car park adjModbury Primary School, Barracks Road, Modbury, Ivybridge, PL21 0RB

Decision: Tree Works Allowed

Decision Date: 26 Jan 2009

#### **Basic Application Details for 35/0048/11/TCA**

Application Description:

T1 - Oak - Crown lift to height of 2.5m and prune back limbs overhanging road.

Application Address: Palm Cross Green, Modbury

Decision: Tree Works Allowed

Decision Date: 15 Feb 2011

## **ANALYSIS**

### **Principle of Development:**

The main application for residential development is, primarily but not wholly within the boundary of the mixed use allocation policy RA 1 with some of the proposed development being outside of the identified allocation. The boundary of RA.1 was an arbitrary one and did not follow any features within the field. In other allocations, where this has been the case, the Council has been flexible if there have been good planning reasons for extending the boundary. In this case during both the pre-application discussions with officers and the community engagements, it was agreed that enlarging the site to create an open space spine would result in a better layout. Officers continue to support the extension of the site boundary to incorporate the whole of the field as shown.

At a regional level, South Hams has previously been identified as being required to accommodate ambitious growth plans, and Modbury is identified as a settlement which needs to develop further. The submitted scheme meets the requirement of being a mixed use proposal that would make a significant contribution to the housing and employment needs of the town. The affordable housing provision is 30%, whereas the full requirement is 55%. However, the provision is comparable with that delivered on most other sites since the recession. Furthermore, the policy requires schemes to have been developed in accordance with a previously approved masterplan. However, the Council's requirements have now changed in this regard and the developer's community engagement strategy was modified to accord with the Council's recommendations on best practice.

Notwithstanding the above part of the site is outside of the allocated area and has to be carefully considered.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In the case of residential development paragraph 49 of the NPPF states that 'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.' The first key question therefore is whether the Council can demonstrate a five-year housing supply.

The Council published a Housing Position Statement in March 2014 which set out a detailed assessment of the district's housing land supply. This concluded that for the rural South Hams (including Modbury) (rSH) just over a five year supply of housing land could be demonstrated. However, this was challenged at an appeal relating to a site in Kingsbridge and the Inspector concluded (August 2014) that "...the Council has failed to demonstrate a 5 year supply of deliverable housing sites in relation to the rSH part of the District." As a consequence of this lack of a 5 year supply the relevant policies for the supply of housing should not be considered up to date.

In light of the Kingsbridge K5 Appeal (APP/K1128/A/13/2210602) it is accepted that, at present, the Council cannot demonstrate a five-year housing supply. In such circumstances it is considered that the current position is that an assessment as to whether the proposed development is sustainable has to be undertaken. If it is, the presumption in favour set out in paragraph 14 of the NPPF will apply and planning permission should be granted where the development plan is absent, silent or relevant policies, as in this case, are out-of-date unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.' However, if it was concluded that the proposal would not result in sustainable development, the presumption in favour would not apply.

The main issue, therefore, in respect of whether the development is acceptable in principle, in the absence of a five year supply of deliverable housing land in the District, is whether the proposal represents sustainable development and if it is, whether there are significant and demonstrable adverse impacts that would outweigh its benefits.

## **Sustainable Development**



Modbury is a settlement that provides a good range of services and facilities for its residents and cannot be described as an unsustainable location.

Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental – whilst Paragraph 12 sets out twelve core planning principles that should underpin planning decisions. These two paragraphs set the context in which to consider sustainability. The three dimensions stated in Paragraph 7 are considered below:

### **The Economic Role:**

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

The development will result in the loss of some agricultural land which could have a minor impact on the agricultural economy but it will provide a new employment building within the site. There is no evidence that the development will have any adverse impact on any other economic activity.

### **Economic Dimension Balance**

On balance it is considered that the impacts of the development do not outweigh the positive economic impact and there is no evidence that the development would result in any significant adverse overall economic impact and in respect this element of sustainable development the balance is considered to be within the favour of the development.

### **The Social Role**

#### **Provision of housing including affordable housing**

The principle social benefit of the proposed development would be the provision of additional housing, including 30% of the homes being affordable and meeting a clear need in the immediate area. The 27 Affordable Homes have a tenure mix and these will be available and affordable to local people. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

The affordable housing officer has confirmed that the proposed 30% affordable housing provision complies with planning policies CS6 and that there are significant levels of unmet housing need across the district. The site is anticipated to meet some of this housing need. In the District wide Strategic Housing Market Needs Assessment (SHMNA) undertaken in 2013, identified need for affordable housing across the District was 242 affordable homes needed every year. The Affordable Housing team have scrutinised this application and are in agreement that the level of affordable housing is appropriate for this site. Modbury is a sustainable location benefiting from shops, school and transport links and as such can support the delivery of more affordable housing.

In respect of the social aspect of sustainability a number of objections have been raised including the pressure on schools with primary schools being oversubscribed, added congestion on highways that are already dangerous, impacts on existing residents who live adjacent to the site and the distance of the site to the facilities within the Town.

#### **Impact on existing Infrastructure**

Consideration has been given to these concerns; the County Council has confirmed that the primary schools that will serve this development currently has capacity for additional pupils. A contribution towards secondary school provision has been requested and agreed for use towards school facilities and an additional contribution towards school transport.

The issue of congestion has been considered elsewhere in the report and it is concluded that the development will not result in any adverse vehicular safety issues. The application includes alterations/revisions to the highway to improve traffic safety.

The site is on the edge of the built up area of Modbury, immediately adjacent to existing residential areas and very close to the primary school. The layout provides suitable pedestrian links to ensure that the site will not be isolated or cut-off from the rest of the settlement. Whilst the site is not immediately adjacent to the services and facilities within Modbury neither is it so far removed that all transport would be undertaken by private car journeys.

### **Impact upon Neighbours**

It is considered that the proposal does not result in any adverse impact on existing neighbouring residential development.

### **Social Dimension Balance**

The balance of the social dimension of sustainable development is not as clear cut as the economic dimension as the shops and facilities are a little distance from the site. However given the very substantial weight that must be given to the provision of additional market and affordable housing, the close proximity of the school, that the shops and facilities are not outside walking distance and the lack of harm from the other identified areas of concern it is considered that the balance is positive in favour of the development.

### **The Environmental role**

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape including the AONB & National Park, ecology and bio-diversity; heritage assets; and surface water drainage.

### **Landscape Impact**

The application has been carefully considered and evaluated by Officers within the Natural Environment and Recreation Team who have assessed the scheme and have made the following comments:

The proposed development is with the Rural Area allocations and therefore the principle of development is agreed providing the proposals fall mainly within the areas identified for the residential and employment build. However, it is important to understand the impacts arising from the layout (full application) and where the most sensitive parts of the overall allocation are located, and how the designs respond to these. An LVIA can also guide mitigation and influence scale, massing and positioning within the designs.

The site is located within the south-east corner of Devon Character Area 45 – Plymouth and Modbury Farmland. There is limited inter-visibility with DCA 04 to the south and distant views from Dartmoor to the north (DCA 52 – Southern Dartmoor and fringes). At a local level it sits

with the 2C - River valley slopes and Combes. The undulating and rolling landscape, with a number of local ridges, contributes to restricting views and creates a strong rural character beyond the village boundary. Whilst the proposed development extends the build edge of Modbury to the north-west, it will remain visually linked.

The submitted LVIA (Nicholas Pearson Associates, November 2014) is noted and appears generally sound. The ZTV identifies the overall limited visibility of the site which has been verified by officers travelling the surrounding highways. Where the site is glimpsed, it is mainly over 1km away and through agricultural gateways.

Consideration has been given to conserving the landscape character, with appropriate mitigation, through the design stages. The full field has been incorporated into the development with a central 'green corridor' extending through the site to the lower section where 'open space' is proposed. This provides an opportunity for planting to further enhance the existing retained tree stock around the perimeter. The scheme extends beyond the allocation boundary although the significant built elements remain on the upper parts, adjacent to the existing urban edge of Modbury village. There are reasonable levels of existing vegetation which are retained and mitigate the built forms of the residential and employment areas.

The points around the road widening are of particular importance and clearly these works to the highway at the current main access route into Modbury will have an adverse impact on the existing character. Providing the boundaries are sensitively designed and importance placed on retaining similar materials etc is agreed by condition, then a reasonable outcome can be achieved. It will however, remain as a moderate adverse impact.

The LVIA identifies the level of effects for both landscape character and visual impact as minor adverse. Officers broadly concur with this appraisal and on this basis, no objection is raised

## **Biodiversity**

The submission contains an Ecological Impact Assessment which includes findings of Phase 2 surveys (reptiles, bat roost and activity, dormice, badger, otter). The site is described as a semi-improved field bounded by species rich and poor hedgerows, with areas of marshy grassland, scrub and an open watercourse (on western boundary).

Phase 2 surveys noted a good population of slow worm and common lizard, outlier badger setts on two boundaries, and use of boundary features by commuting and foraging bats (including light-sensitive species).

The proposed development includes removal of some 135m of species-poor hedgerow in the south-east of the site to facilitate access and loss of semi-improved grassland and scrub. Otherwise hedgerows are retained, and in terms of new habitat features, the EclA notes that the proposal offers:

- Allotments
- c.690m new species-rich native hedgerow.
- c.920m<sup>2</sup> native shrub planting.
- c.1000m<sup>2</sup> new wet woodland planting.
- c.4600m<sup>2</sup> new wildflower meadow.

- Two new attenuation ponds with permanent open water and native marginal planting and wet meadow (c.980m<sup>2</sup>).
- 'Rain garden' water attenuation features incorporating wet meadow.

The public open space and mix of habitats (and native species planted within) is likely to be of value to species recorded on site including reptiles, nesting birds, and Barn owls. A pre-commencement Landscape and Ecological Management Plan will be required, detailing design, management and maintenance of these new habitats, and also retained hedgerows to maximise biodiversity value (for further detail with respect to requirements from a LEMP, see BS 42020:2013 paragraph D.4.5, and SHDC Local Validation List – reference to LDMMS)

The retention of 10m buffers alongside the western and northern boundaries to act as 'dark corridors' is welcomed, and this reads across to the submitted lighting strategy. It is noted that this will be publically managed (by Management Company) to prevent interference from new residents – subject to detail of maintenance within the LEMP this is also welcomed (noting recommendation of the RSPB that hedges are cut not more frequently than every 3 years, appropriately timed and in rotation).

The RSPB have proposed that the number of inbuilt swift nest boxes is increased from 20 to 60 – I note the locations proposed for the bird boxes which are sensible but agree that it would be reasonable to increase the level of nest box provision. Given the previous record of a foraging Barn owl across the site, and the suitable foraging habitat that will be lost, the Barn Owl Trust have recommended that a permanent Barn owl nest box provision should be made within one of the new buildings on site, and in accordance with the design guidance on their website. This is entirely reasonable, and should be reflected on plans prior to determination.

### **Heritage Assets**

The application is supported by a Heritage Assessment that identifies the heritage assets in the area. There are no designated assets within site but the Conservation Area is adjacent to the site and there are a number of Listed Buildings nearby. The application has been assessed by one of the Councils Conservation Specialists who concludes that the proposed development is unlikely to offer a harmful impact on nearby heritage assets – buildings and Conservation Area or their settings and as such there is no reason to raise an objection from a Conservation perspective.

### **Surface Water Drainage/Flood Risk**

The Environment Agency and Council Drainage Engineers are satisfied that the development can be satisfactorily accommodated on the site without having any adverse impact from surface water drainage subject to conditions ensuring the provision of a fully designed scheme.

### **Environmental dimension balance**

The environmental role in considering where the development is sustainable is fairly clear-cut, the proposal, as set out above does provide new habitat features whilst the impact of the development is not significant. The benefits have to be set against the loss of an area of open countryside, leading to a change in the local environment and landscape. That impact has been carefully considered and, it is offset by the location of the appeal site outside the AONB, and the lack of evidenced harm to the environment. Whilst the application site is within a pleasant piece of countryside the site itself is neither so special nor the impact of the

development so substantial, that its loss to development would represent significant material harm to the identified areas of potential concern.

### **Sustainable development conclusion**

In terms of the economic and social dimensions of sustainable development, it is considered that there are benefits from the proposed development and that where adverse impacts in these respects can be identified, there is no evidence to suggest that they represent a scale of significant and demonstrable impact as would outweigh those identified benefits. Furthermore, given the NPPF's priority and the acknowledged housing supply position in the District, the additional dwellings to be provided must carry very substantial weight in determination of the application.

It is concluded that the site is sufficiently sustainable to pass the first part of the test set by Paragraph 14 of the Framework. It is clearly sustainable in economic and social terms and, although there is an issue over the use of land adjacent to the open countryside, the location of the appeal site is reasonably sustainable and the adverse impacts identified including the landscape to be lost are not so significant as to fatally undermine the proposed development's sustainable credentials. It is also concluded that whilst the impact on the ecological and biodiversity worth of the site is on balance probably neutral, the impacts, given mitigation measures, are not so significant as to outweigh the benefits identified.

Overall, therefore, on balance, it is considered that the proposed development is sufficiently sustainable to pass the first part of the test as set out in the NPPF.

Given the conclusion that the site is in a sustainable location the further consideration is whether there are significant and demonstrable adverse impacts that would outweigh its benefits:

### **Other matters**

#### **Prematurity of the development in advance of a Neighbourhood Plan.**

It has been suggested that the development should be resisted until there is a Neighbourhood Plan in place. Any new Neighbourhood Plan would need to be in conformity with the Local Plan, and where a relatively up to date plan exists, such as the Rural Areas Site Allocations Development Plan Document (February 2011), it would be expected that any emerging Neighbourhood Plan would merely note the commitment to building on the Palm Cross Green site (if development had not already occurred). The purpose of the Neighbourhood Plan process is not to frustrate development from taking place, but to ensure there is effective community engagement on future developments.

#### **Principle of additional housing in the town**

There remains some third party opposition to the principle of having additional houses in the town. Such objections consider that facilities will be overstretched by an enlarged population. Some third parties have said that there is no need for further housing and that allocations elsewhere, particularly Sherford, can provide for what is required. Whilst residents are entitled to hold such opinions, they have no objective statistical basis. This is primarily an allocated site which is needed to meet the strategic need for homes within the district. Furthermore, the Parish Plan highlights to shortage of affordable housing as being one of the 3 key issues for the community. Affordable housing is rarely provided without open market housing unless public or charity funding is available.

It is significant that the Town Council's recommendation for refusal is not based on an in principle objection to the development

### **Number of houses.**

The Town Council has included in its objection that the allocation for 80 dwellings would be exceeded by the provision of 93 units. Officers have not raised any "without prejudice" objection to this increase during the pre-application process because they have taken the following factors into account:

- The policy refers to "about" 80 dwellings, so this was always going to be a negotiable number. 93, is of the same order of magnitude;
- The greater the number of dwellings overall, the more affordable housing will be provided;
- 80 larger houses might provide the same viable basis for 27 affordable units and so accord with the policy, but would result in dwellings which are less in keeping with the historic core of the town;
- The layout and number of dwellings was an outcome of the community engagement process. It represents the best use of land, as encouraged by Government policy, and achieves a good balance between built form and open space.
- Every few extra houses helps in achieving the Council's core strategy and the 5 year land supply targets for housing supply
- The environmental impact of 13 more dwellings would be insignificant and it would be impossible to provide evidence in any appeal as to why this number was unacceptable.

For the above reasons, officers consider the policy requirement would be fulfilled rather than breached.

### **Need for a link road.**

The preamble to the allocation RA1 mentions local aspirations for a link road. Specifically, it says:

*"There are local aspirations for a new road through the site to link with Barracks Road and relieve pressure on the Palm Cross junction. Whilst this may not be necessary to facilitate the site's development and it will be important that the requirements of the proposal are delivered as a priority, such a link would alleviate the traffic hazard at Palm Cross and assist in achieving a permeable design. Any development proposals for the site should therefore include measures to address this issue. Infrastructure required to support the development shall be provided in phase with the development and in accord with adopted policies, particularly policy CS8 of the Core Strategy"*

The aspiration for a link road persists amongst some members of the community. Officers are aware that the perceived need for a link road is partly to relieve traffic at Palm Cross Green but also, in the mind of some people, it is to create highway capacity to serve future expansion of the town.

The applicants have resisted providing such a link road for the following reasons:

- RA1 does not require a link. Indeed the preamble confirms that one is not necessary to facilitate the development. In this circumstance, it would be unreasonable to insist that the developer provides a link. The requirement would fail the usual tests of what is

fair and reasonable to require of developers. A refusal for failure to provide a link road would open the Council to the risk of a claim for costs in any appeal.

- The Transport Assessment demonstrates that much of the use of the Palm Cross junction is generated during school drop off and collections. The public car parking provision, made within the site, will provide safer alternative set down and pick up arrangements. This will reduce significantly the use of the existing junction;
- The Highway Authority has neither asked that a link road be provided, nor requested a contribution towards future highway infrastructure. This reinforces the conclusion that a link road is not needed for this development.
- During the community engagement exercise, it was clear that many who live in Barracks Road are opposed to any increase in vehicles using it. There has been no local referendum or proper public opinion survey on this matter;
- If a link was made between the proposed new junction and Barracks road, all traffic may then pass through the new housing area. This would undermine all the work that has been done to make this a safe shared home-zone type area. It would make it a much less pleasant place to live;
- There is no publically available assessment of possible future housing sites in the Town. There is therefore no agreed transport assessment to show how any sites might be accessed. This work would form part of any Neighbourhood plan for the area. It would be unreasonable to prevent the delivery of an allocated site for something which may never be needed and has not been subject to public examination.

### **Public parking area.**

The public currently utilise land adjacent to the green which provides about 30 car parking spaces. There is currently no charge to the driver, so this is a useful facility for those with no off street parking. Residents who use this regularly are obviously fearful of losing this facility.

There are comments from the community saying both, on the one hand, that the land utilised by the public and parish for parking should not be changed by the developer and should stay as a car park and, on the other, that insufficient enhancement and facilities are being provided by the developer.

This land is not considered as legally owned by the Land Registry as no party has provided sufficient evidence to support such a claim and register ownership. It is therefore unregistered. The Parish Council has registered only a caution which indicates that it cannot actually produce paper title to the land. From a legal perspective that means no rights of way or easements can be conveyed by the PC to another party as it cannot prove to the Land Registry it has the legal right to do so. Only the (unregistered) legal owner could do so. As the land is not registered and there are no title deeds available, there is no way of finding out who legally owns the land; the fact that no-one has claimed ownership since at least 1963, suggests that no-one is aware that they own it. It seems therefore that any work that the applicant wishes to do to the land following any grant of planning permission cannot be either prevented or agreed by proprietary interests.

Over the passage of time this land has however been utilised by the public on an informal basis as a parking area and, for a longer period, pedestrian use for access to adjoining properties. This use has been occurring for a sufficient period of time which would give rise to prescriptive rights. Records show that it has been utilised by the public since at least 1963.

The applicants contend that the same basis of exercise of rights over a long period of time will also have created vehicular and pedestrian rights for the adjacent landowners who have

passed over the land to and from their properties, including that which is the subject of an application for development and supporting documentation is available to confirm this.

As a result, residents of any future development, as both members of the public and successors in title to the adjoining properties, should be entitled to similar rights over the land as are enjoyed currently by the public and adjacent owners.

Both applications propose to provide a replacement parking area which would have the same number of spaces. These would remain free unless the Parish Council decided to introduce any charges. These new spaces would be within a larger parking area, so there should be less congestion and over-use at school set-downs and pick-ups.

Furthermore these spaces would be properly surfaced and demarcated and lit. They would therefore have greater utility in the dark and when the weather is bad. The new car park land would also be registered at Land Registry and so would have more security than the existing one which relies on established rights of access rather than clear title.

The main application includes the provision of a footpath across this area; the footpath would not be raised and would not, itself, prevent the continued use of the land for parking.

The second application proposes to remove the existing parking spaces and provide an area of landscaping.

#### **Pedestrian arrangements.**

There are a series of pedestrian connections between the site and surrounding footpath network. Footway connectivity is an issue which was flagged as important in the Parish Plan. Ultimately, though easy and convenient pedestrian access to the rest of the town is compromised by steep slopes and steps. Nevertheless, good pedestrian movement between the main site and the top of the town and the area around the school will be improved as a result of the provision of additional footpaths the provision of a highway works and connection from the northern end of the site.

Concerns about the deliverability of a route across the utilised by the public and parish are discussed above. Officers consider that the footpath links can be secured then this will be a very permeable and well connected site for pedestrians.

#### **Ransom strips.**

The Highway Authority has suggested SHDC seek to ensure there are no ransom strips created by the development. This request has been repeated by the Town Council.

There is no allocated development land adjoining the site. Consequently there is no public interest that is involved with securing access from the boundary of the site. Any land owner (in this case the applicant) is not obliged to make arrangements for providing access to the land of adjoining owners. The requests are well intentioned but go beyond the remit of the planning powers of SHDC.

Should adjoining land ever be proposed the relevant land owners will have to come to a negotiated settlement. It is not for the Planning Authority to consider such a private land matter as a material consideration.

#### **Amount of employment land.**



The RA1 allocation requires that there should be 0.5 ha of employment land. The applicant has chosen to build an employment (B1) building rather than offer just a serviced site. This is an approach which was taken on the applicant's proposal in Salcombe.

The benefits of this approach are that:

- It ensures employment floor space is delivered soon rather than having to wait for the market to respond;
- It creates certainty for house purchasers, as they know what form the employment provision will take;
- It creates the opportunity for a comprehensive approach to be taken to urban design and allows the building to make a positive contribution to the townscape.

Officers conclude that the reduction in the amount of employment land is compensated for by these benefits and are willing to support the construction of an employment building in lieu of serviced land as a successful strategy similar to that adopted at Salcombe.

#### **Location of the affordable housing and allotments.**

It has been suggested that some of the affordable housing has been located too close to a working farm on the edge of the site and that it would be better to relocate the allotments to this position. Whilst this may seem a sensible suggestion, the applicant considers the changes to be unnecessary because any potential noise or odour nuisance will be adequately mitigated for by the acoustic fence and window design.

In addition, relocating the allotments will mean they are further from the town and so be less convenient. It will also reduce the benefits they will provide as a buffer between the new and existing dwellings.

Officers concur with the developers that are not necessary to change the layout and there would not be good planning reasons to refuse the development because of the proposed layout.

#### **Appearance and height of the employment building**

Some objections have been made about the height and appearance of the employment building at this "gateway" to the town. Whilst the site is elevated, so any building there will be prominent, there are existing imposing buildings on the other side of the road. The character of the high street is made up of many three storey buildings on the high side, sitting on raised footways, so officers consider the appearance of the building will not be at odds with the character of the town.

The design of the office building was well received in the community workshops as being fresh and contemporary. Officers are inclined to share this view.

#### **Sewage facilities and drainage arrangements.**

The proposals have been discussed with South West Water and drainage engineers. No objections have been received from the competent bodies, so there no grounds for concern about these aspects.

The SUDS proposals have been well amalgamated into the open space core of the layout and the balancing pond will be an attractive feature at the end of this area.

#### **Public Opinion**

There has been local opposition to the proposed development, whilst planning authorities are expected to consider the views of local residents when determining an application, the extent of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons which are supported by substantial evidence. Planning authorities should therefore make their own objective appraisal and ensure that valid planning reasons are stated and substantial evidence provided. In this case, the concerns raised have not been set aside lightly and the Council is mindful of the content of the Localism Act 2011. However it is considered that the objections raised in respect of this application have been carefully and objectively considered with this report

### **The Planning Balance and Conclusion**

The main application seeks planning permission, for 93 dwellings of which 27 are affordable homes, an employment building, open space, allotments, highway works and associated works. The proposed development would conflict with Development Plan policy insofar as the elements of the site that are outside of the allocation RA1 and would result in residential development outside the development boundary. It is considered that, in the absence of the Council being able to demonstrate a five year housing supply, the policies within the Development Plan with regards to housing have to be seen as out of date. In such circumstances the NPPF sets out that the issue to consider is whether the proposal represents sustainable development and if it does there is a presumption in favour of the scheme.

For the reasons as set out in the report, it is considered that the proposal does satisfy the three dimensions of sustainable development. Given the view taken that the development is sustainable the question to be considered is whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the NPPF as a whole.

No overriding technical objections have been raised and the impacts of the development have been assessed. There are no adverse impacts that would outweigh the benefits of the scheme.

With regard to the objections raised in the letters of representation, the main areas of concern have been addressed above.

Therefore, in conclusion, the application is recommended for approval, subject to conditions and a s106 agreement.

With regards to the second application; the landscaping of the existing car park area, there are no land use planning reasons to refuse the application. The loss of the spaces is off set with the provision of new spaces and the landscaping will enhance the area.

However, if this landscaping was not undertaken, which would be welcomed by some of the community, especially those who use the parking area this would no impact on the main application which is acceptable, in planning terms in its own right.

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

## **Planning Policy**

### **National Planning Policy Framework**

Paragraphs 6 -10; 11; 12; 14; 17; 28; 34; 36; 38; 47; 49; 50 112; 115; 118; 120 & 124

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

CS1 Location of Development

CS2 Housing Provision

CS6 Affordable Housing

CS7 Design

CS8 Affordable Housing

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

DP8 Open Space, Sport and Recreation

DP9 Local Facilities

DP11 Housing Mix and Tenure

DP15 Development in the Countryside

### ***Affordable Housing DPD***

AH1 Affordable Housing Provision

AH4 Mix and tenure of affordable housing

### ***Rural Areas Site Allocations DPD***

Proposal RA1: West of Palm Cross Green

**Mixed use development is proposed, to include:**

- **About 50 dwellings and 0.5 ha of employment land by 2016;**
- **Beyond 2016 about 30 dwellings and 0.5 ha of employment land;**
- **Improved pedestrian safety measures at Palm Cross Green, by 2016;**
- **Strategic landscaping measures to address the site's prominence, by 2016;**
- **About 0.15 hectare of play provision and 0.3 hectare of other public space; and**
- **Cycle and footpath provision including enhanced access to the town centre.**

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

The preamble to policy RA1 states:

*"The site proposed to meet the bulk of development requirements for the town lies on the western edge of the town to the west of Palm Cross Green. Parts of the site are elevated and open to distant views. However, the location performs well in terms of availability,*

*sustainability, deliverability and place-making, is close to the primary school, Memorial Hall and employment estate and can meet all the town's development requirements to 2016.*

*Part of the site adjoins the main A379 road, from which access can be achieved. The provision of improved pedestrian safety at Palm Cross Green and good pedestrian links to the town will be particularly important. Suitable strategic landscaping measures will also be required in order to address the site's prominence.*

*There are local aspirations for a new road through the site to link with Barracks Road and relieve pressure on the Palm Cross junction. Whilst this may not be necessary to facilitate the site's development and it will be important that the requirements of the proposal are delivered as a priority, such a link would alleviate the traffic hazard at Palm Cross and assist in achieving a permeable design. Any development proposals for the site should therefore include measures to address this issue.*

*Infrastructure required to support the development shall be provided in phase with the development and in accord with adopted policies, particularly policy CS8 of the Core Strategy"*

## **Open Space, Sport and Recreation DPD**

### **South Devon AONB Management Plan**

### **Conservation of Habitats and Species Regulations 2010**

### **National Environment and Rural Communities Act 2006**

### **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:** Mr Alex Sebbinger

**Parish:** Kingswear

**Application No:** 30/1422/14/F

**Agent/Applicant:**

Alex Marsh  
Fuse Architecture  
Studio A  
Birdwood House  
44 High Street  
Totnes TQ9 5SQ

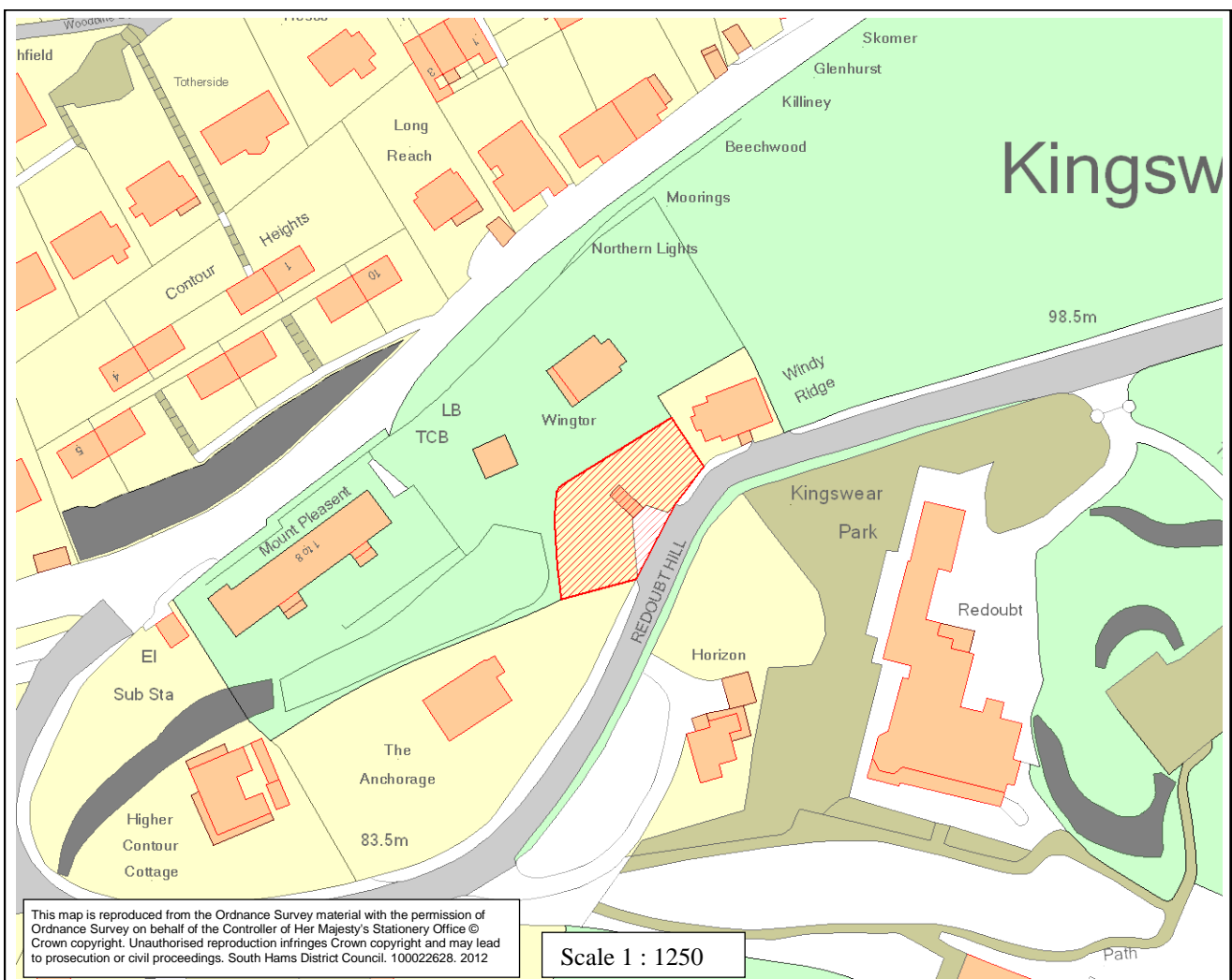
**Applicant:**

Mr M Bayliss  
The Anchorage  
Redoubt Hill  
Kingswear  
Dartmouth  
TQ6 0DA

**Site Address:** The Anchorage, Redoubt Hill, Kingswear, Dartmouth TQ6 0DA

**Development:** Erection of a single two storey dwelling and separation of part of garden

**Reason item is being put before Committee:** Councillor Hawkins has requested committee determination due to the impact on neighbouring properties, loss of public amenity and loss of view for the public.



**Recommendation:**

Conditional approval

**Conditions:**

Time limit for commencement  
In accordance with approved plans  
Permitted development restrictions  
Materials to be agreed  
Unsuspected contamination condition  
Details of foul and surface water drainage

**Key issues for consideration:**

The main issues with this application are the principle of development of erecting an additional dwelling within the development boundary, the design and appearance of the building and whether or not it is considered to result in visual detriment and/or harm upon the the Area of Outstanding Natural Beauty. The impact on neighbours and any highway matters are other key considerations.

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**Site Description:**

The site is situated to the east of the village centre of Kingswear on the north west slope, with views over River Dart towards the town of Dartmouth. The site is a piece of land set between the properties of The Anchorage and Windy Ridge with access drive to The Anchorage. The land slopes down to the boundary of neighbouring property of Wingtor and is partly terraced with a single garage and two adjoining parking spaces accessed from the road. The existing garage is built with brick walls rendered, metal up and over garage door and concrete tiled roof tiles.

**The Proposal:**

The proposal is for the separation of the garden from the property The Anchorage and the erection of a two storey dwelling house set into the hillside of the site and with provision of three car parking spaces and a log store on the east (front) elevation. The property will be constructed with local limestone lower ground walls with metal seem cladding for ground floor with standing metal seem roof. The doors and windows will be constructed in aluminium.

**Consultations:**

- County Highways Authority – No Objection
- Environmental Health Section – No Objection subject to unsuspected contaminated land condition to be placed on any permission granted.
- Drainage – Holding objection on ground of land drainage due to insufficient information
- Parish Council – Objection – application is contrary to Local Plan

Policy DP7 (new development shall not be permitted within this location). A public view will be lost if this development is permitted. Urban design in an AONB rural setting in a very prominent position. Does not sit comfortably and jars on the eye. Kingswear is a very special place and public views and a sense of place need to be robustly protected. This building would remove the only unspoiled and cherished public vantage point from the road looking up the river valley towards Dartmoor. This must not be allowed to happen.

### **Representations:**

Around 41 letters of representation (including a petition with 149 signatures) received raising the following objections in no particular order:

- Development is proposed in an area that is protected from future development and density under planning policy DP7;
- Loss of public view from Redoubt Hill that is within the Area of Outstanding Natural Beauty (AONB);
- The proposal is over development of the site, being sited too close existing dwelling house The Anchorage;
- The proposed design and density of the building will result in overall harm upon the AONB;
- The proposed design is not in keeping with the local vernacular of architectural styles;
- Issues of dominance upon property to north west Dartwood House (Windy Ridge) and overshadowing of Wingtor;
- Concern to land slippage and impact upon neighbouring properties;
- No engineers report or supporting evidence have been submitted with the application to prove that the land could accommodate this new dwelling;
- Loss of light to neighbouring property's solar photovoltaic array at Wingator;
- Loss of privacy to neighbouring properties in particular Wingator;
- No provision for off street car parking is shown on the submitted drawings;
- Traffic survey provided is inadequate the traffic flows are much higher than detailed in the assessment submitted;
- The drawings have no dimensions detailed;
- There is a covenant on the land stating that only one property is to be constructed and this should be investigated.

### **Relevant Planning History**

30/1243/11/PREMIN – No Officer Support – Erection of two storey dwelling house

30/1974/04/F – Conditional Approval – Alterations and extensions to dwelling

30/2008/97/3 – Conditional Approval – Erection of car port and workshop

30/1899/96/3 – Conditional Approval – Construction of car port and store and erection of wall with gate at entrance

## **ANALYSIS**

### Principle of Development/Sustainability:

The application site is located within a residential area within the Kingswear Development Boundary. This application is for the removal of an existing single storey garage and for subdivision of the plot to erect an additional dwelling. As the site is within a residential area, within a Development Boundary the principle of development of an additional residential unit is considered acceptable in principle under established planning policies.

It is noted that representations refer to Saved Policy DP7 from the 1996 South Hams Local Plan. Whilst it is acknowledged that this policy states that *“Development which would significantly alter the density of building or damage the landscape character of the Policy Area shown around Castle Road on the Proposal Map, will not normally be permitted”*, this policy is now considerably out of date. The National Planning Policy Framework (which post-dates this Policy) advises that from a twelve month period (that expired in March 2013), due weight should be given to relevant policies in existing plans dependent on their consistency with the NPPF. It is not considered that saved Policy DP7 can carry significant weight given its age and how its scope does not accord with the principles that are found within the NPPF. Moreover, Paragraph 14 of the NPPF states that where relevant policies are out of date, planning permission should be granted unless there are any adverse impacts of doing so, that would significantly and demonstrably outweigh the benefits when assessed against the framework.

Consequently it is considered that the principle of a new residential unit is acceptable subject to compliance with all other relevant development control policies.

### Design/Landscape:

Significant concern has been raised regarding the design and appearance of the building, which is of a contemporary modern design using powder-coated aluminium, limestone and seam cladding. The proposed dwelling is to be of a split level style and will have a flat roof. Whilst it is acknowledged that the building styles within the vicinity of the site are of a traditional style and vernacular, there is however no distinct dominant building style and the architectural patterns are varied overall. Although of a modern design, it is not considered that it would appear unduly intrusive in the street-scene.

Significant concern is also raised in respect of the loss of the public view with the proposed development from Redoubt Hill. What must be emphasised is that there is no right to a view under the planning system, and whilst the view that can be achieved at present from Redoubt Hill will be blocked, this is a view over private land and cannot be taken as a material planning consideration.

The site is within the AONB, and as it sits within the development boundary amongst other residential properties is not considered to be in itself an intrusive visual feature. Photomontages have been provided that demonstrate that the flat roof nature of the building will not be unduly visually intrusive, and against the backdrop of other buildings is not considered to give rise to any harm to the AONB.

### Neighbour Amenity:



Concern has been raised regarding the potential for overlooking of neighbouring properties, as well as the dominance of the building. Overall, the position of the dwelling is elevated in relation to the property with the most potential for impacts; Wingtor. It is acknowledged that the sheer position would give rise to the perception for overlooking to occur, the angles and relationship between the private areas of Wingtor and its garden are not considered to give rise to serious or adverse levels of overlooking to that property.

The size of the building and the way in which it is set into the slope will ensure that any levels of light loss do not occur to an excessive degree. Significant concern has however been raised regarding the impact of the development on the ability of solar panels on the roof of Wingtor to function properly. The applicants have provided data that show that the panels (which function on daylight, not direct sunlight) would not be affected in a manner that prohibits their proper functioning however the refusal of planning permission on these grounds would be very difficult to defend on appeal.

#### Highways/Access:

No objection is raised by the Highway Officer. The comment that there has been no provision of off street car parking is shown on the submitted drawings is noted. However, three off street parking spaces have been indicated 1 at the front (east) of the property adjacent to the road and therefore provision has been provided and this comment is not a valid reason for refusal.

#### Contaminated land:

Environmental Health has recommended that an unsuspected contaminated land condition should be placed on any permission granted. This comment is noted though not considered to be necessary as the development is a householder application and there is no suspected contaminated land as historically used as a garden.

#### Other Matters:

South West Water has commented on the application detailing that the proposal is within 3m of a water main. An informative detailing this information to the applicant will be placed on any permission granted. Although drainage officers have raised an objection in terms of drainage, it is considered that the imposition of a condition that requires details of foul and surface water to be submitted can adequately address this and ensure that the development will cater for both foul and surface water disposal.

#### Conclusion

The application is considered to be acceptable and APPROVAL is recommended.

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

#### **Planning Policy**

Para. 56 states that *'the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development.'*

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

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

### ***Development Policies DPD***

DP1 High Quality Design  
DP2 Landscape Character  
DP3 Residential Amenity  
DP4 Sustainable Construction  
DP5 Conservation and Wildlife  
DP6 Historic Environment  
DP7 Transport, Access & Parking

### ***South Hams Local Plan (please delete as necessary)***

SHDC 1 Development Boundaries  
DP7 Kingswear

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

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

# Agenda Item 6d

## PLANNING APPLICATION REPORT

**Case Officer:** Wendy Ormsby

**Parish:** Ivybridge

**Application No:** 27/0372/15/F

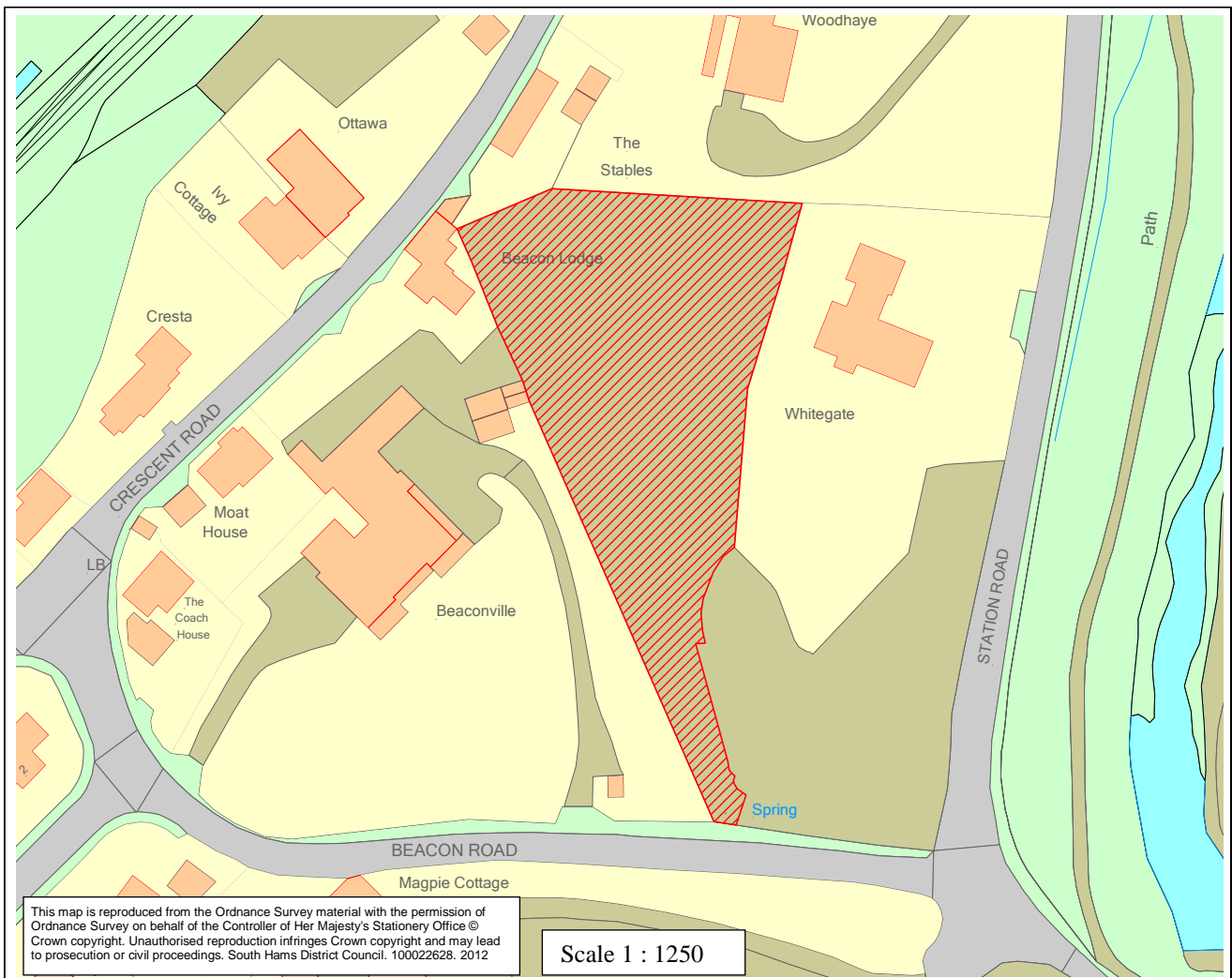
**Agent/Applicant:**

Moorhaven Ltd  
Mrs A Peacock  
The Pottery  
Moorhaven Village  
Ivybridge, PL21 0HB

**Site Address:** Proposed development site at SX 6345 5674, Mill Manor, Beacon Road, Ivybridge PL21 0AQ

**Development:** Erection of new dwelling

**Reason item is being put before Committee** Cllr May has requested the application be brought to the Committee to ensure it is properly scrutinised



**Recommendation:** Refusal

### **Reasons for refusal**

The proposed dwelling, as a result of the subdivision of the large Mill Manor plot to create two smaller plots and due to its proximity to and relationship with the adjoining listed building Woodhaye, will fail to preserve or enhance this part of the Conservation Area and will lead to substantial harm to the setting of a Listed Building. As such the development is contrary to Policy IP6 of the South Hams Local Plan, the South Hams Local Development Framework Core Strategy Policy CS9, the South Hams Local Development Framework Development Policies Development Plan Document Policy DP6 and Chapter 12 of the NPPF

### **Site Description:**

The application site is a green site of approx 0.75 acres located within the Development Boundary of Ivybridge and sited towards to northern boundary of the town. Beacon Road runs to the south of the site and Station Road, separated from the site by dwellings, lies to the east. East of Station Road is the wooded valley following the river Erme. The railway viaduct defines the edge between Ivybridge and Dartmoor National Park to the north of the application site. South East of the site is Stoford Mill and Ivybridge College beyond that. The character of the area is of a tranquil, green, low density residential area with a sense of historic grandeur. The site lies within a Conservation Area.

The land was last used as a paddock for the grazing of horses. The site was shown as being included within the new residential curtilage of Mill Manor when planning permission was granted for this new dwelling in 2012. Mill Manor was recently completed and it is understood that the recent sale of Mill Manor did not include the land that forms part of the application site.

To the north of the site is Woodhaye, a Grade II Listed Building. The application site was originally a paddock serving this property; the curtilages of the paddock and Woodhaye are separated by a ha ha. There is some planting on this shared boundary but the front of the Woodhaye remains clearly open and visible when viewed from the application site.

Woodhaye, one the first houses to be built in this part of Ivybridge originally sat in grounds of some 3.75 acres (1.5ha); more recently parts of this land have been developed for housing at Whitegates and Mill Manor or separated off through conversion at The Stables. Woodhaye now sits in grounds of approx. 1.45 acres.

The dwellings within the converted stable block of Woodhaye sit to the North West, as does Beacon Lodge. Beaconville Nursing Home lies to the west of the site. Whitegates adjoins the eastern site boundary. All these residential properties are currently reasonably well screened from the site by mature vegetation.

Access to the site is from an existing access into Beacon Road which would be shared with Mill Manor.

The site rises gently from the South East to the North West. There is a small copse of trees within the North West corner of the site; all other significant trees are on the site boundaries. The main part of the site is open grassland, which is starting to become overgrown with brambles in parts.

## **The Proposal:**

It is proposed to build a mostly single storey, spacious, four bedroom dwelling. The South Western part of the building will be two storeys with a garage at the lower level. The building will include a 'green' flat roof planted with a meadow of grasses and flora and the building will be of a contemporary, low rise, angular design. It is proposed that the elevations be finished with a mixture of stone, render and reflective cladding.

The building will be sited towards the North West corner of the site, the highest and most steeply sloping part of the site. The building will be cut into the land such that the North West elevation will barely emerge from the ground. The principal South East elevation will vary in height from 3.5m at its Northern edge to 6.5m at its Southern edge where the building becomes two storeys.

Only the South East elevation will contain any windows or doors.

It will be necessary to remove the existing copse of trees in this North West corner of the site; replacement tree planting is proposed behind the house in this corner and further landscaping of the entire site is proposed.

A new driveway is proposed running north from the existing access of Beacon Road, close to the western site boundary. The driveway will widen into a turning and parking area in front of the South Western part of the house leading to an area of steps, terrace and walkways that link to the front door of the house.

The remaining part of the site will be lawn with a limited number of specimen trees planted within it.

## **Consultations:**

- County Highways Authority – Standing advice
- SHDC Drainage – No objection
- NER – No objection with regard to impact on trees.
- Town Council – Objects for reasons summarised as follows:
  - Adverse impact on Conservation Area
  - Adverse impact on Listed Building Woodhay
  - Contrary to Policy IP6
  - Adverse impact during construction
  - Impact on residents of adjacent nursing home during construction due to amount of excavation required.
  - Loss of trees and replacement with non-native species

- Design is out of character with the area

SHDC Conservation: Objects, detailed comments are as follows:

## **Legislative Framework, Principles and Guidance relating to the assessment of the impact of development on heritage assets.**

### ***Planning (Listed Buildings and Conservation Areas) Act 1990***

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

*“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*

This statutory obligation is further reinforced through Section 12 of the NPPF.

### ***National Planning Policy Framework (NPPF)***

The following paragraphs within Section 12 are of particular relevance to this case:

Para. 128 states: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*

Para. 129 states. *“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*

Para. 132 states. *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”*

Para. 133 states. *“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.....”*

Para 134 states. *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”*

### ***National Planning Practice Guidance***

The recently launched National Planning Practice Guidance (NPPG) is also of relevance particularly the Section: Conserving and Enhancing the Historic Environment.

Para 3. Decision-taking: historic environment – *“Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals.”*

Under the same heading reference is made to the *Setting of a Heritage Asset*:

*“A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Setting is the surroundings in which an asset is*

*experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places”.*

*“The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.”*

Further guidance is given with regards to assessing harm:

*“ What matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, [significance](#) derives not only from a heritage asset’s physical presence, but also from its setting. Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting. While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.”*

Further advice and guidance is offered within the 2011 English Heritage publication: *The Setting of Heritage Assets*.

### ***The Setting of Heritage Assets – English Heritage Guidance 2011.***

In the introduction to this document it states: *“The significance of a heritage asset derives not only from its physical presence and historic fabric but also from its setting – the surroundings in which it is experienced.”* The document explains that to properly assess a development’s impact on the setting of heritage assets a sequential approach should be adopted. This approach is detailed on pages 17-22 and covers a 5-step approach categorised as follows:

Step 1 – Identifying the heritage assets affected and their settings.

Step 2 – Assessing whether, how and to what degree these settings make a contribution to the significance of the heritage asset.

Step 3 – Assessing the effect of the proposed development on the significance of the asset(s)

Step 4 – Maximising enhancement and minimising harm

Step 5 – Making and documenting the decision and monitoring outcomes.

### **Recent Case Law**

In 2013 *East Northamptonshire DC v. Secretary of State for Communities and Local Government* (known as the ‘Barnwell Manor’ case), the Court of Appeal held that Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 required decision makers to give *“considerable importance and weight”* to the desirability of preserving the setting of listed buildings.

Further recent case law has reinforced this view, reiterating the view that the primary statutory duty for decision-makers is to favour preservation.

Paragraph 49 of the judgment on *R. (on the application of (1) The Forge Field Society (2) Martin Barraud (3) Robert Rees) v Sevenoaks District Council* [2014] EWHC 1895 states:

*“...an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.”*

## **The Significance and Setting of Woodhaye**

Woodhaye is reputed to have been built as a dower house in the 1840s and is an exceptionally well-preserved medium-sized dwelling from this period. It was clearly a high status house, with its winding, private approach drive, generous grounds and commanding position on the hillside. For these reasons, it clearly has **historic** and **evidential** significance as a good exemplar of the architectural fashion of the day and one of the first buildings in this area north of the town, very close to the original station, which opened around the time the house was built.

The **aesthetic** significance of the house and grounds is just as important, however. The site and orientation were carefully selected to take full advantage of the prospect to the south and east as well as the wooded backdrop (The Cornwood Tithe Map, drawn a short time before construction of the house in the early 1840s, shows a green field with no nearby development. Woodhaye was therefore clearly intended to be seen within this landscape (including from the paddock where development is now proposed) and, despite some development around it, is still very picturesque.

It is clear that the paddock south of the house was intended to form part of this setting. The ha-ha that separates them was designed to enable a seamless view from the house of the garden and field beyond. All the principal rooms of the house face south to take advantage of this view. Furthermore, the house can be especially well appreciated from this space, rising above the paddock with the woods behind it. Late 20<sup>th</sup> century development has caused some harm to this setting – notably Whitegate, built 1981 on the former tennis court (before Woodhaye was listed) - however, like the house itself, the overall setting is well preserved enabling Woodhaye to be experienced in much the same way as it was originally intended.

## **Significance of Northern part of Ivybridge Conservation Area**

The area running along the west bank of the river Erme between the former station and the primary school is a welcome lung of very low density development dividing and contrasting with the two dominant areas of Ivybridge housing estates. Station Road itself is attractive and retains historic walls and kerbstones with attractive views to the east and west. There are significant glimpses of Woodhaye from the road with mature trees in the foreground.

## **Statement of Heritage Significance submitted with application**

This statement complies with the requirement of paragraph 128 of the NPPF set out in section 1 above. It draws the following conclusions:

- a. *‘The proposed development site was not part of the designed landscape for the asset. The setting has been eroded by historic development that has affected views of the asset from the wider context and thereby, views out from the asset. Significance now lies in the building itself and its immediate garden setting.’*
- b. *‘The wider setting, where the proposal site is located, is considered only to make a small contribution to the significance of the house as it was once part of the curtilage but never designed in a way that the gardens immediately around the asset were.’*
- c. *‘There are no longer any public vantage points into the site.’*
- d. *‘The setting is not significant enough to preclude any form of development within the wider context.’*



- e. *'The direct benefits of the proposal to the asset are limited to a large extent due to the fact that the general public currently do not have appreciation of the asset as it is hidden from public view. It can be argued that there is a limited indirect public benefit as the construction of a new dwelling will allow the new owners to appreciate the asset from their garden. Therefore, as there is currently no public benefit enjoyed, then the proposal enhances this position. Hence the assertion that relatively the proposal has a significant benefit.'*
- f. *'The proposal has 'less than substantial harm' on the heritage asset and even though its wider setting will be altered from existing open pasture to a managed residential landscape, through careful design, this impact can be minimised.'*

## **The Council's Response to the applicant's *Statement of Heritage Significance***

- a/b There is clear evidence that the development site was indeed part of the designed landscape for the asset. The purpose of a ha-ha was to create a visual continuation of the garden into the surrounding landscape, while at the same time excluding livestock. The views from the principal rooms of the house and from the veranda all face in this direction. It is acknowledged that these views have been eroded somewhat by the construction of Whitegate, but the principal outlook over the paddock can still be appreciated and forms an important part of the setting and the significance of Woodhay.
  - c. In fact, there are public vantage points of the house from Station Road. Notwithstanding these, the National Planning Practice Guidance states that the contribution setting makes on the significance of a heritage asset *'does not depend on there being public rights or an ability to access or experience that setting'*. Woodhay is a good example of a building the significance of which lies in its wider landscape setting.
  - d. Development can take many forms; however the proposal under consideration is a new house, drive and domestic enclosure. This is considered to cause significant harm to the setting of the listed building.
  - e. There appears to be a misunderstanding here of the meaning of *'public benefit'* as defined in Paragraph 134 of the NPPF. The ability of the owners of the new house to see Woodhay is not a public benefit and certainly would not outweigh the harm caused to the significance of the listed building.
  - f. While it is clear that an attempt has been made to minimise the impact of the proposed house, it would be located very close to Woodhay and occupy part of the foreground of views from it. While the partial sinking the building into the hillside and cladding its roof in sedum or grass would reduce the visual impact of the house compared with a conventional building, it would still be significant, not just by occupying much of the view, but also through the noise and other activity associated with a dwelling. The mere presence of a house in such close proximity would fundamentally transform the surroundings of Woodhay and result in harm to its significance (notwithstanding changes to the space that may occur under the terms of the existing new house at Mill Manor.

Within the very wide and inexact definitions provided in the NPPF and NPPG, this harm must still be considered to be *less than substantial*. However, it is highly significant and is in no way outweighed by any small public benefits deriving from the proposal. It is the duty of the Council to *have special regard to the desirability of preserving the building or its setting and great weight should be given to the asset's conservation*.

## **Summary**

Much of the significance of Woodhay lies in its landscape setting and there is evidence that its site was carefully selected to take advantage of this. The paddock was intended to form part of this designed setting and features in the principal views from the house. It therefore makes an important contribution to the significance of the listed building.

Although subsequent development has affected the setting, it survives remarkably intact. The proposed construction of a new house in the paddock, close to the boundary of Woodhay would harm the significance of the listed building. As such, it would be contrary to South Hams LDF Core Strategy policy CS9; DPD policy DP6 and the NPPF.

### **Representations:**

All letters of representation can be viewed in full on the Council's web site.

34 letters received in SUPPORT of the application for reasons summarised as follows:

- The garden to Mill manor is too large
- This is a welcome addition to the housing stock
- It is a sustainable development
- The impact will be minimal
- Will encourage, needed, wealthy, high spending residents to Ivybridge
- Will enhance the Conservation Area
- One house will not adversely impact on traffic levels.
- Economic benefit to area such as for tradesmen
- Unusual and interesting design, innovative.
- Still a large plot
- Good use of undeveloped land
- Will not be visible from the road
- Will improve appearance and landscaping of site
- Will restore setting of the Listed Building

39 letters have been received OBJECTING to this development for the reasons summarized as follows:

- Officers have previously stated that there would be no 2<sup>nd</sup> dwelling on this land.
- The huge amounts of excavation are unsustainable
- Contrary to the low density Policy IP6
- Increase in traffic on Beacon Road will have an adverse impact
- Adverse impact on character of Conservation Area

- Will not conserve or enhance Conservation Area
- Significant adverse impact on Listed Building
- Impact on sewer system serving `The Stables`
- Public danger from construction traffic
- Design is out of character with the area
- Large expensive housing does not address local housing need
- Better located further into the site to allow more planting to give more privacy to neighbours
- Access to Mill Manor is dangerous
- The boundary between the site and Woodhay is a ha ha indicating the land is part of the setting of the Listed Building
- No significant public benefit
- Footprint is too big
- Land is overlooked by Woodhay so will have little privacy

Ivybridge Civic Society – Objects on the grounds summarized as follows:

- Will increase traffic contrary to Policy IP6
- Large footprint and excessive excavation required
- Precedent for developing nearby large plots would be created.

### **Relevant Planning History**

- 27/2298/14/VAR, Retrospective variation of condition (2) to planning consent  
27/2823/12/F
- 27/1436/14/F, Erection of garage, Land adj to Whitegates, Beacon Road, Ivybridge, Conditional Approval
- 27/0720/14/F, Householder application for erection of new garage, Land adj to Whitegate, Beacon Road, Ivybridge, Conditional Approval
- 27/2823/12/F, Full application for erection of four bedroom house and formation of new driveway with associated works, Land adj to Whitegate, Beacon Road, Ivybridge, Conditional Approval

## **ANALYSIS**

### **Principle of Development:**

The site is located within the Ivybridge Development Boundary. Within development boundaries the principle of residential development is normally acceptable subject to all other material planning considerations being satisfied. In this case of great relevance in considering the principle of development on this site is saved Policy IP6 of the South Hams Local Plan which states the following:

*..development which would alter the low density character of, or increase the number of vehicles in, the Policy Areas around Woodhaye, The Chantry and Highland will not normally be permitted`*

Policy IP6 was saved as part of the Local Development Framework in 2006 as it was recognised that this part of the Conservation Area was relatively unchanged and the characteristics identified in this policy remained relevant. Policy IP6 has subsequently been considered against the NPPF 2012 and is considered to be compliant. Policy IP6 therefore remains as a material consideration.

Policy Area IP6 is characterised by unusually large plots including:

The Chantry – 3.3 acres

Highlands –

Woodhaye – 1.45 acres

Mill Manor (approved site area including this application site) – 1.3 acres

Beaconville – 1.28 acres

The application proposal would split the Mill Manor site, creating two plots of 0.75 acres and 0.55 acres. In a normal urban context these two plots would be considered large, however this Policy Area recognizes the unusually large grounds of the buildings within it, and seeks to preserve this characteristic. The proposed plot sizes of 0.75 acres and 0.55 acres are half to a third of the size of the large plots currently existing within the Policy Area; they are significantly smaller than other plots in the Policy Area and therefore out of character with the plot sizes of the area.

In 2009 an appeal against the refusal of planning permission for the construction of 2 dwellings within the very large (3.2 acres) grounds of The Chantry was dismissed because of the impact on overall spaciousness of the site which provides a leafy backcloth to the town centre and riverside. This site falls within the same IP6 Policy area as the application site.

It is concluded that the application proposal is contrary to Policy IP6 and the principle of any new dwelling on this site unacceptable.

### **Impact on the Conservation Area**

Policy DP6 of the LDF requires that development should preserve or enhance the quality of the historic environment, taking into account local context and the character and appearance of the environment.

Integral to the character of this part of the Conservation Area is the green spaciousness created by the very large plot sizes of key properties in the area, which are specifically identified in Policy IP6.

The land south of Woodhayes has already been subdivided; in the 1970's when Whitegates was built and more recently by the construction of Mill Manor. To subdivide this land further with additional development will erode the open character of the area to an unacceptable level where significant harm would be caused to the character of this part of the Conservation Area.

The development proposal would not preserve or enhance the quality of the historic environment and as such is contrary to Policy DP6 of the LDF.

### **Design/Landscape:**

The proposed dwelling has been designed to minimize its impact on the adjacent Listed Building, it is low rise and dug into the hill slope. The design is contemporary, including a flat planted green roof. The proposed palette of materials is stone, render and reflective cladding.

Objections have been raised about the design of the building stating that it is out of character with the Conservation Area. In seeking to preserve and enhance a Conservation Area it is not always necessary to prevent any change or to only allow new build that copies existing styles; well designed contemporary architecture can fit well into a Conservation Area as a continued evolution of the landscape.

In this case it is considered that the design of the proposed dwelling in itself is acceptable and in other circumstances could be acceptable within a Conservation Area. The objection in this instance is not the detailed design but the principle of a new built form within this site; the impact it will have on the setting of the Listed Building, Woodhaye and the adverse impact on the Conservation Area arising from the subdivision of a larger residential plot.

### **Neighbour Amenity:**

The proposed building is low rise with openings only on the South East elevation, looking to the boundary with Whitegate which is well screened with mature vegetation. No significant loss of privacy to neighbours will arise, there will be no loss of light to neighbours and the building will not appear overbearing.

The proposed gardens for the new house will be significantly overlooked by Woodhaye which could encourage future residents to plant trees on this northern boundary so as to obtain privacy. This would adversely affect the setting of the Listed Building.

Concerns have been raised about the disturbance to neighbours during construction, having particular regard to the amount of excavation required. Whilst it is acknowledged that disturbance will arise this would not in itself justify the refusal of planning permission but should be managed through a Construction Management Plan.

The impact on neighbour amenity is acceptable.

### **Heritage:**

The heritage issues raised by this application have been comprehensively addressed in the Conservation Officer's consultation response included in this report.

The applicant has responded to these comments challenging some of the points raised:

The applicant states that the reference to the land as being a paddock is misleading as it is now approved within the Mill Manor application as being residential curtilage. The land historically was a paddock and was referred to as such in historic sales particulars for Woodhaye, the land has been grazed by horses in recent memory of local residents. The land was indicated as being within the residential curtilage of Mill Manor but to date has not been brought into residential use and is not in the ownership of the owners of Mill Manor. Officers consider the reference to the land as being a paddock is appropriate.

The reference to the boundary between the application site and Woodhaye as being defined by a ha ha is challenged. Officers are of the opinion that the boundary is defined by a ha ha; even if it were not a ha ha it is clear that the intention of this low wall is to allow views between Woodhayes and the paddock.

Officers remain of the opinion that there are clear views from the ground floor windows of Woodhaye into much of the application site.

In conclusion, the proposed development would lead to substantial harm to the listed building. As such it is contrary to South Hams LDF Core Strategy Policy CS9, DPD Policy DP6 and the NPPF.

#### **Highways/Access:**

The site is accessed off Beacon Road which is a single lane road with the entrance through an existing gated entrance. The proposal would result in an increase in traffic movements within the area. Policy IP6 clearly states that an increase in traffic will not normally be permitted. Within the 2008 appeal decision at the Chantry the inspector concluded that the introduction of two dwellings would not materially adversely affect the free flow of traffic and highway safety on the vicinity. In addition to this Officers from Devon County Council have offered standard advice and raise no objection to the scheme.

On balance officers feel that the increase in traffic movements associated with a further single dwelling will not be significant.

#### **Conclusion:**

The proposed dwelling as a result of the subdivision of the large Mill Manor plot and due to its proximity to and relationship with the adjoining listed building Woodhaye, will fail to preserve or enhance this part of the Conservation Area and will lead to substantial harm to the setting of a Listed Building. As such the development is contrary to policies IP6 of the South Hams Local Plan, Core Strategy Policy CS9, Development Plan Policy DP6 and Chapter 12 of the NPPF and it is recommended that planning permission be refused.

***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**

*NPPF*

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

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

### ***Development Policies DPD***

DP1 High Quality Design

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

### ***South Hams Local Plan***

IP 6 Environment in Ivybridge

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

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

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## PLANNING APPLICATION REPORT

**Case Officer:** Wendy Ormsby

**Parish:** South Pool

**Application No:** 48/1099/15/F

**Agent/Applicant:**

Richard Atkinson  
Atkinson Architects  
5 Acre Place  
Plymouth, PL1 4QP

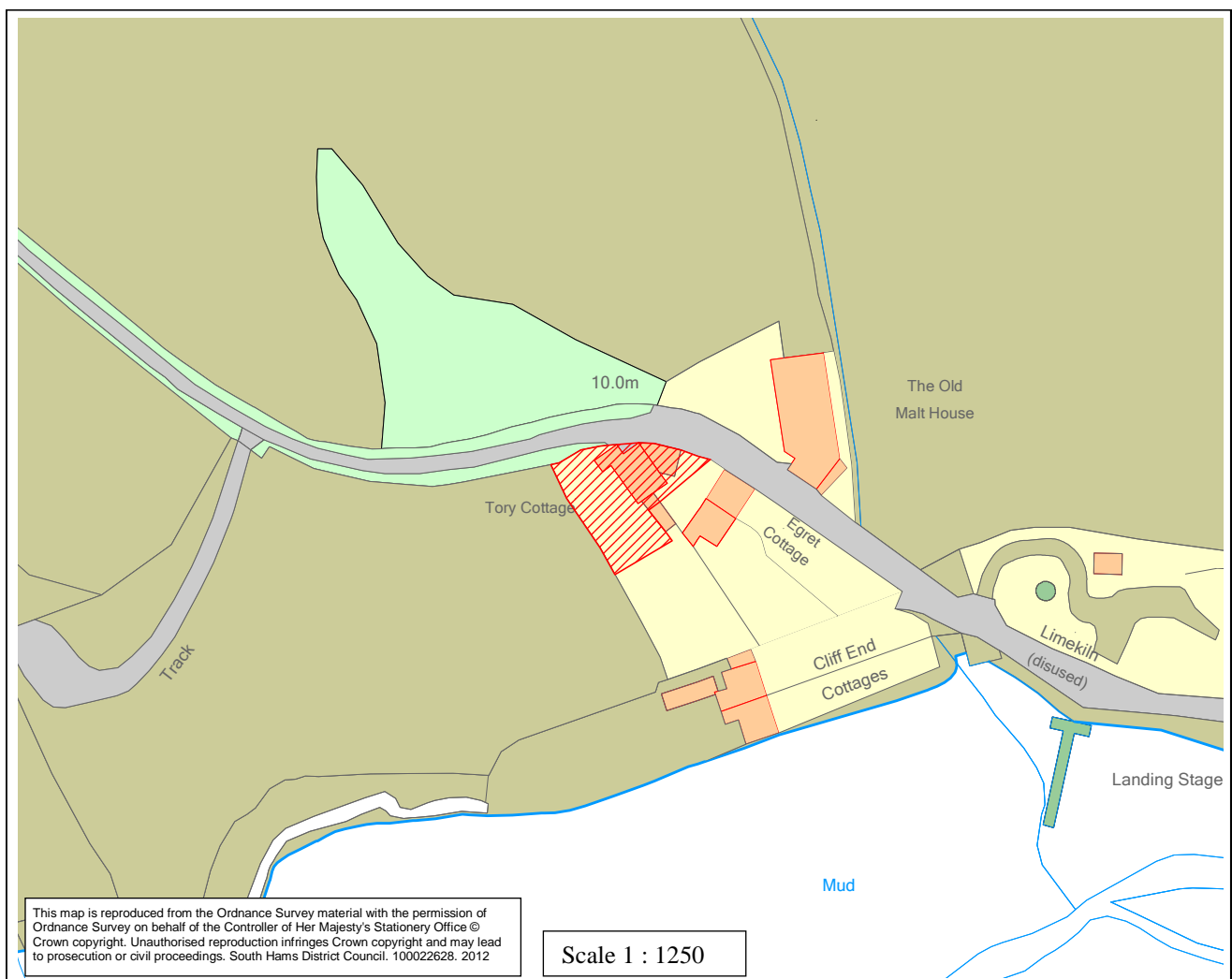
**Applicant:**

Mr C Cameron  
The Sail Loft  
South Pool  
Kingsbridge, TQ7 2RZ

**Site Address:** The Sail Loft, South Pool, Kingsbridge, TQ7 2RZ

**Development:** Householder application for refurbishment of dwelling including single storey extension, new two storey link between main house and new extension and new landscape and patio to garden (resubmission of application 48/0409/15/F)

**Reason item is being put before Committee:** Having regard to the objections from the Conservation Officer and the recommendation for approval being at odds with this specialist advice it is considered appropriate for this application to be considered by Committee.



## **Recommendation:** Conditional Approval

### **Conditions**

Time

Accords with plans

Samples of materials to be agreed including stone samples.

Window on north east elevation to be maintained as high level.

No windows to be inserted in north west elevation.

Details of hard and soft landscaping including boundary treatment.

Tree protection scheme to be agreed and implemented.

Unsuspected contamination

### **Site Description:**

The Sail Loft is a traditional 19<sup>th</sup> century two storey building that has been modified over time with the addition of a car port at the front and a small side extension. It is set into sloping land so has bedrooms on the ground floor, with living accommodation above. The living accommodation has access to the rear garden which is level with the eaves of the building. The upper part of the building is painted render, the lower part is stone. The roof is fibre cement tiles.

The property fronts the road and is the last property as you leave the village, with farm land adjoining to the north. Access is from a narrow rural lane; this lane is bordered by an old stone wall and trees as it travels west from the application site. The property is part of a cluster of buildings sited at this north western end of South Pool. The building, set behind a pair of cottages is visible from only a limited number of locations. It is not visible from the main village of South Pool.

The Sail Loft is located within the north western corner of the recently extended South Pool Conservation Area and is within the South Devon AONB

### **The Proposal:**

It is proposed to add a single storey rear extension with a link to the main house, to refurbish the main house and to provide a patio and landscaping in the garden. The main house will be re-furbished to provide three bedrooms and three bathrooms plus an additional W.C. The single storey extension will provide an open plan kitchen/dining/living room.

The Sail Loft is built into a hillside. The rear garden, currently accessed by steps from the rear of the house, is at eaves level with the rear of the house. This change in levels has led to an unusual relationship between the extension and the main house in that, despite the fact that it is only a single storey extension that is proposed, the extension will be level with the roof ridge of the main two storey house.

The extension will be cut into the existing ground level to keep it down to roof ridge height. It is a contemporary angular design with a flat roof but uses traditional materials of stone and cedar shingle cladding. High level windows are proposed on the side elevations and glazed doors are proposed in the south east elevation, facing South Pool Creek. These doors will open onto a new patio.

An enclosed stairway between the house and the extension will link the two parts. This has been designed to step downwards in height to reduce the bulk of the building at this point.

The existing car port at the front of the building will be re-roofed with PVC coated metal. The existing side extension will be removed.

The old stone wall that runs along the northern boundary with the road will be rebuilt and the crooked tree on this boundary will be removed. No other trees will be removed.

### **Consultations:**

- County Highways Authority - standing advice
- Environmental Health Section - recommends unsuspected contamination condition
- Town/Parish Council – objects for the reasons summarised as follows:
  - Overdevelopment of the site
  - Detrimental to the whole area of South Pool Creek
  - Neighbour concerns regarding overloading of the sewage system
  - The site is within the extended conservation area, AONB and SSSI
- Conservation Officer – Objects – detailed comments as follows:

*I visited the site on 17 June. While the site is generally well screened from public views, there are two points from which it will be clearly visible: a long view from across the river – viewpoint was a field gate immediately below the entrance to Gullett Farm – and from the road immediately to the north of the site. Based on the applicant's submitted photos it appears likely that there are other views from the water's edge along the creek where at least part of the proposed building would be visible.*

*The Sail Loft, which appears to have been formerly known as Tory Cottage, is one of a small group of vernacular buildings clustered around the area known as Cliff End. The recent conservation area appraisal (adopted 18 March 2015) identifies this cluster of vernacular buildings as being of sufficient importance to the historic character and appearance of the area for them to be included in South Pool conservation area. It is clear that the Sail Loft originated as an outbuilding associated with Egret Cottage, and the two buildings are linked by a courtyard and are enclosed within the same historic boundary wall. The conservation area appraisal states that the Sail Loft / Tory Cottage was formerly a carpenter's workshop.*

*This part of the conservation area is characterised by the cluster of 18<sup>th</sup>/19<sup>th</sup> Century buildings, which are informally positioned to focus on the river slipway. It is an inward-looking, intimate and small scale streetscape, which nestles into the steep slope of the hillside. Boundaries are generally characterised by rubble stone walls, which give way to hedgebanks as one moves away from the houses.*

*The conservation area management plan, adopted at the same time as the appraisal, devotes a paragraph to extensions and new outbuildings in the conservation area. I include it here for clarity:*

*Broadly speaking, development applications in South Pool endeavour to be sympathetic to the special environment but there has been a trend in recent years to increase the size of properties disproportionately and incorporate new outbuildings that are inappropriate in size and to their setting. This is especially the case along the Creek where development proposals may seek to enhance a property's views outwards but in doing so impact on the views inwards towards the property as seen from the road or more especially from the water on coming up the Creek.*

*Since the views to and from the Creek are so central to South Pool's landscape and the purpose of the Conservation Area designation (including the proposed extension – see below) the Council will always take views into consideration where there development proposals would affect them.*

*The conservation area appraisal and management plan have been formally adopted very recently following public consultation.*

*In my view, the proposed development would have a negative impact on the character and appearance of this part of the conservation area. The proposed building will not sit comfortably in the streetscape, it does not nestle into the steeply-sloping hillside and it is not positioned to relate to the existing buildings.*

*The footprint of the proposed extension is almost the same as that of the existing house, and the flat roof will be at the same height as the ridge of the existing roof. The flue will be taller than the chimney on the main house. When viewed from the road to the north of the site the building will appear overdominant and out of place.*

*The linking section does not relate well to the eaves line of the existing building, and the two sections of pitched roof appear particularly awkward on the north elevation. The introduction of a new glazed door and a flight of steps to the road will fundamentally alter the character of the boundary and harm the character of the streetscape here, which at present is very quiet and draws the eye down the hill toward the slipway and the river.*

*I have no objection in principle to a contemporary design here, and in my view if anything is to work here, it will be a high quality contemporary design. If the proposed building were considerably reduced in size to respect the north gable of the house, dug into the ground such that the flat roof were approximately at the eaves height of the existing building and the floor height in line with the existing first floor of the building, if the link section were dramatically simplified and pared down, and if the north boundary treatment were amended to provide screening from the road, then it may be possible for a contemporary building of the type proposed to be sited here without harm to the character and appearance of the conservation area.*

*As the application stands at present, I could not recommend approval.*

### **Representations:**

Seven letters of objection have been received which can be viewed in full on the Council's web site. The reasons for objecting are summarised as follows:

- Out of keeping with the architecture of the village
- Contrary to Policy

- Too large
- Too modern
- Excessive glazing – will infringe dark sky policy
- Does not preserve or enhance the Conservation Area
- Shared septic tank does not have capacity for more intensive use of site
- Overlooking to The Old Malthouse
- Yennadon stone is the wrong stone type for the area
- General conservation advice is that it should be considered if it is appropriate for a site to be developed at all.

## **Relevant Planning History**

48/2331/14/PREHH – Pre-application enquiry for single storey extension

48/0409/15/F – Refurbishment of dwelling, including single storey extension, new staircase link between main house and new extension and modification to garden and patio -  
Withdrawn

## **Background**

The applicants submitted a pre-application enquiry in 2014 to discuss an extension of the property. Various schemes were proposed and initially a contemporary flat roofed extension was preferred by the applicant. Due to concerns raised by the Parish Council this contemporary design was changed to an extension with a tiled, pitched roof. This was a taller, bulkier design. This was then submitted as application ref 48/0409/15/F. Local residents objected to this application on a number of grounds including height, bulk and overlooking. The Parish Council objected despite the more traditional design.

This application was withdrawn and in discussion with Officers a revised scheme was drawn up, reverting to the applicant's preferred flat roofed contemporary design which reduced the bulk of the extension. The revised scheme has a smaller footprint and is set at a lower level, incorporating sliding shutters to reduce the impact of the glazed patio doors.

Due to changes in staff at this Council there has been change in the Officers dealing with these negotiations. A number of Conservation Officers and Planning Officers have been involved in the pre-application advice and subsequent negotiations, including the Conservation Officer involved in the extension to the South Pool Conservation Area. Matters of design detail were discussed but no objection in principal was raised against this application by Officers.

Due to staff illness a further Conservation Officer has become involved in this application who has objected to the application as detailed above

## **ANALYSIS**

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

The site is located within the countryside where South Hams LDF Policy DP17 states that proposals to extend dwellings in the countryside will be permitted where there will be no detrimental impact on the character, appearance and amenities of the site and surroundings. Extensions should be subordinate in scale and proportion to the original dwelling

## **Design/Impact on the Conservation Area:**

The topography of the land around the Sail Loft has led to an unusual development proposal, where a single storey extension will be level with the roof ridge of a two storey house.

Normally officers would encourage an extension to read as a subordinate but integral part of the main house. In this instance however, it is the officer's opinion that the proposed extension will sit well in the site reading as a garden pavilion rather than as an extension, this is due to its size, design and location relative to the main house. Having regard to the fact that there are very limited views of the extension and the main house together this is considered appropriate in this context. For this reason the link between the extension and the house has been stepped down to allow visual separation between the extension and the main house.

As indicated in the Conservation Officer's report above, a contemporary design that will demonstrate how the building has evolved over time is more appropriate than a pastiche copy of the original. This contemporary design with a flat roof also minimises its bulk. The use of traditional materials of stone and cedar shingle cladding will tie the contemporary shape into its surroundings.

It is relevant to note that a stand-alone garden building of similar proportions to the application proposal could be built in the garden of the Sail Loft as Permitted Development.

As acknowledged by the Conservation Officer there are limited viewpoints to Sail Loft – there are distant views from the road running out of South Pool on the other side of the Creek and it is visible directly from its road frontage. It would be visible from any boat using the Creek. The property is not visible from the main village of South Pool.

The distant views from across the creek include a backdrop of tall mature trees behind the Sail Loft. The extension would not be prominent in the landscape; it is relatively small scale and uses natural materials that will blend into the landscape. It would not materially alter the character of the Conservation Area or adversely impact on the South Devon AONB.

The Conservation Officer's concerns focus on the impact of the extension on the street scene as you approach the site from the North West. However, the stone wall on this boundary is to be rebuilt to retain the narrow, rural character of this lane. Only one corner of the extension reaches the northern site boundary and the extension is set at an angle from the road, parallel with the main house, so will not be seen head on as you travel down this curved lane. It is this officer's opinion that the extension will not be unduly intrusive in the street scene and will not adversely impact on the character of the Conservation Area.

Due to the siting of the extension it is unlikely that it will be visible from any other location except by users of the Creek, from where, set with a backdrop of mature trees and using natural materials that will blend into the surroundings, the visual impact is considered to be acceptable.

Residents have raised concerns about the amount of glazing on the front of the extension. The scheme includes a pair of sliding, slatted screens in front of the patio doors which will significantly reduce the amount of exposed glazing. There are very limited locations where this elevation will be visible from.

The proposed set of narrow stone steps from the road to provide access to the garden are of an appropriate design and scale, using traditional materials. They will not be out of place in this rural lane.

Whilst special regard must be had to development proposals within Conservation Areas, this designation does not preclude change. Illustrations provided as part of this application show how this part of South Pool Creek has gradually evolved over time and provides useful illustrations of how the development proposal will fit into the landscape.

The comments of a Conservation Officer are not lightly put aside, but in this case it is considered that the proposed extension will adequately preserve the character of the Conservation as required by Policy DP6 of the South Hams LDF.

### **Neighbour Amenity:**

Concerns have been raised by occupants of The Old Malt House that overlooking of their property will arise from the window in the north east facing elevation.

This is a high level window set at an oblique angle to the Old Malt House which is located on the other side of the road to the east. It is considered that no significant overlooking of this property will result. Conditions will ensure it is retained as such.

Due to the location of the extension and the topography of the land there will be no significant overlooking of properties located to the south of the Sail Loft.

### **Highways/Access:**

There is no change to the vehicular access and there is adequate on site parking

### **Drainage**

Neighbours have raised concerns about increasing the size of the Sail Loft having regard to the capacity of a shared septic tank. The Sail Loft shares a septic tank with neighbours and it is located within the grounds of Egret Cottage. It is understood that there is an agreement between the properties using this septic tank to pay for its maintenance.

The proposed development will result in one additional bedroom at the property which will have a limited impact on the volume of foul waste, if at all. The application includes a statement from a drainage engineer confirming that foul drainage currently runs to a shared septic tank and recommends this arrangement continues. Should at any time the septic tank require upgrading this would be a civil matter between the interested parties.

### **Trees/Landscaping**

The application has been amended so that, with the exception of a crooked tree emerging from the boundary wall, existing trees on site can be retained, in response to comments on the previous application from the South Pool Tree Warden. A condition will address this further.

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

## **Planning Policy**

*NPPF*

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

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

### ***Development Policies DPD***

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP6 Historic Environment

DP7 Transport, Access & Parking

DP17 Residential Extensions and Replacement Dwellings in the Countryside

### **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.



# Agenda Item 6f

## PLANNING APPLICATION REPORT

**Case Officer:** Mr Alex Sebbinger

**Parish:** Bigbury

**Application No:** 05/0383/15/F

**Agent/Applicant:**

Nicholas Wordie  
Roderick James Architects LLP  
Discovery House  
Steamer Quay Road  
Totnes, TQ9 5AL  
nick@rjarchitects.co.uk

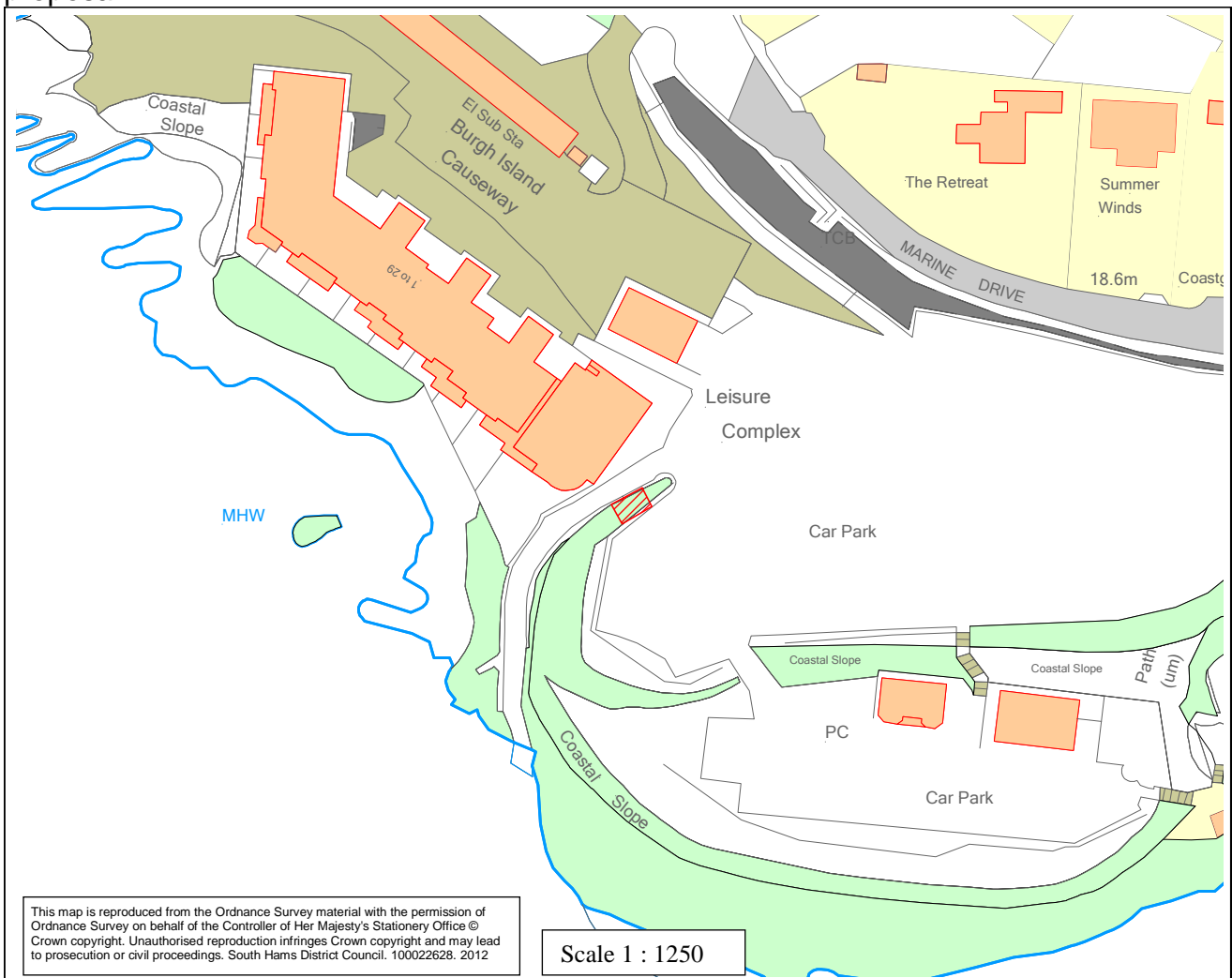
**Applicant:**

The Venus Company Ltd  
Mr & Mrs M Smith  
Halwell Business Park  
Halwell  
Totnes  
TQ9 7LQ

**Site Address:** Proposed beach hut/kiosk, Land at SX 6508 4421, Bigbury on Sea

**Development:** Excavation and formation of retaining wall for erection of temporary beach hut/kiosk with change of use of land

**Reason item is being put before Committee** – Due to strength of local opinion against the proposal



## **Recommendation: Conditional Approval**

### **Conditions**

Time frame for commencement of development

Accordance with plans

Seasonal use & removal out of season

Loading/unloading materials

Materials

### **Key Issues for Consideration**

The proposal relates the excavation of an existing grassed bank and formation of a concrete base with retaining walls to provide a kiosk building which would provide light refreshments to takeaway. It would be in operation from July until mid September, catering for the additional seasonal demand. The works are considered to be relatively small scale and low key with limited visual impact and would not appear out of place within this developed coastal location or cause harm to the AONB. Officers are satisfied that there would not be any significant impact on highway safety.

### **Site Description:**

The application site is a small grassed bank situated to the top of the beach access ramp within the south western corner of the main coastal car park in Bigbury on Sea. Burgh Island Causeway, an apartment block, lies immediately to the west of the site. The site lies within the South Devon Area of Outstanding Natural Beauty and Countryside.

### **The Proposal:**

The application seeks planning consent for the erection of a timber framed kiosk building formed from excavating the existing grass bank and creating a new structural concrete platform and steps with retaining walls to the north, east and south elevation. Guardrails to a height of 1.1m are proposed on top of the retaining walls. The footprint of the concrete base is approx 24 square metres. The new kiosk building would be set back approx 1.5m from the highway, behind timber decking.

The proposed building would measure approx 2m by 4m with a height of 2m rising to approx 3m to the ridge. It would be clad in painted timber horizontal boarding with a double pitch roof to be covered externally in felt.

The kiosk would provide ice creams, teas and coffees and other light refreshments and would be in position on the site between 1<sup>st</sup> July and 15<sup>th</sup> September in any given year.

### **Consultations:**

- County Highways Authority                      No objection
- Environmental Health Section                      No objection
- Town/Parish Council                              Objection
- AONB unit    No objection
- Natural England                                      No objection

## **Representations:**

At the time of writing the report, 8 objections have been received raising the following concerns: -

- Overdevelopment
- Concerns over public safety
- Already adequate number of food outlets
- Set an undesirable precedent
- Detrimental to AONB
- Questions regarding land ownership
- Concerns regarding land stability
- Inappropriate design
- Potential noise from generator

## **Relevant Planning History**

None

## **ANALYSIS**

The application seeks planning consent for the excavation of the existing grassed bank and formation of concrete platform (with retaining walls) to facilitate a timber framed kiosk building which will provide light refreshments to takeaway.

### Principle of Development/Sustainability:

There is no objection in principle with the proposed development. Par 28 of the NPPF stipulates that planning policies should support economic growth in rural areas to create jobs and prosperity. Sustainable rural tourism and leisure developments are fundamental to this, benefiting business in rural areas, communities and visitors. Policy CS13 supports the diversification of the rural economy providing a development is compatible with its location and setting and does not cause any 'unacceptable' harm to the surrounding landscape. Policy DP12 supports proposals for tourism and leisure where it is demonstrated they support the objectives of rural regeneration and are situated within sustainable locations. The proposal constitutes a small scale, low key kiosk building which would serve tea and coffees, ice creams and other light refreshments. The building would be on site between 1<sup>st</sup> July and 15<sup>th</sup> September each year, catering for the additional seasonal demand.

### Design/Landscape:

The existing site is already characterised by built development, namely the car park, Burgh Island Causeway apartment block and beach shop with the backdrop of Bigbury on Sea village and the site is already a popular, local tourist destination. The proposed kiosk building and associated engineering works would not appear visually out of place within this developed coastal landscape. The proposed kiosk building and associated engineering works are considered to be relatively small scale and low key, being largely set into the roadside bank. The kiosk would be a timber framed building, clad in horizontal timber boarding, appropriate within this coastal location. The applicants intend to remove the building when it is not in operational use.

### Neighbour Amenity:

Officers are satisfied that the proposal would not cause any harm to the living conditions of the residents at Burgh Island Causeway situated immediately to the east of the site. Concerns have been raised regarding potential noise disturbance and odours from the generator however this element is no longer included within the application. Revised drawings have been submitted accordingly.

### Highways/Access:

While concerns regarding public safety are noted, officers do not consider that the harm caused from the development would be so significant and Devon County Council Highway Officers have raised no objection on this basis. Although there is separate pedestrian access point from the main car park to the beach this requires steps and in reality individuals who park their vehicles close to the application site access the beach via the existing road. The kiosk building would be set back from the road behind a platform and it is unlikely that individuals would be queuing on the road.

### Recommendation

The proposal is considered to satisfy the objectives of the national and local development plan and is recommended for approval subject to conditions.

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

### **Planning Policy**

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

CS1 Location of Development  
CS7 Design  
CS9 Landscape and Historic Environment  
CS13 Rural Diversification

#### ***Development Policies DPD***

DP1 High Quality Design  
DP2 Landscape Character  
DP3 Residential Amenity  
DP7 Transport, Access & Parking  
DP12 Tourism and Leisure  
DP15 Development in the Countryside

#### **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:** Patrick Whymer

**Parish:** Sparkwell

**Application No:** 49/0776/15/F

**Agent/Applicant:**

Andrew Lethbridge  
Andrew Lethbridge Associates  
102 Fore Street  
Kingsbridge, TQ7 1AW

**Applicant:**

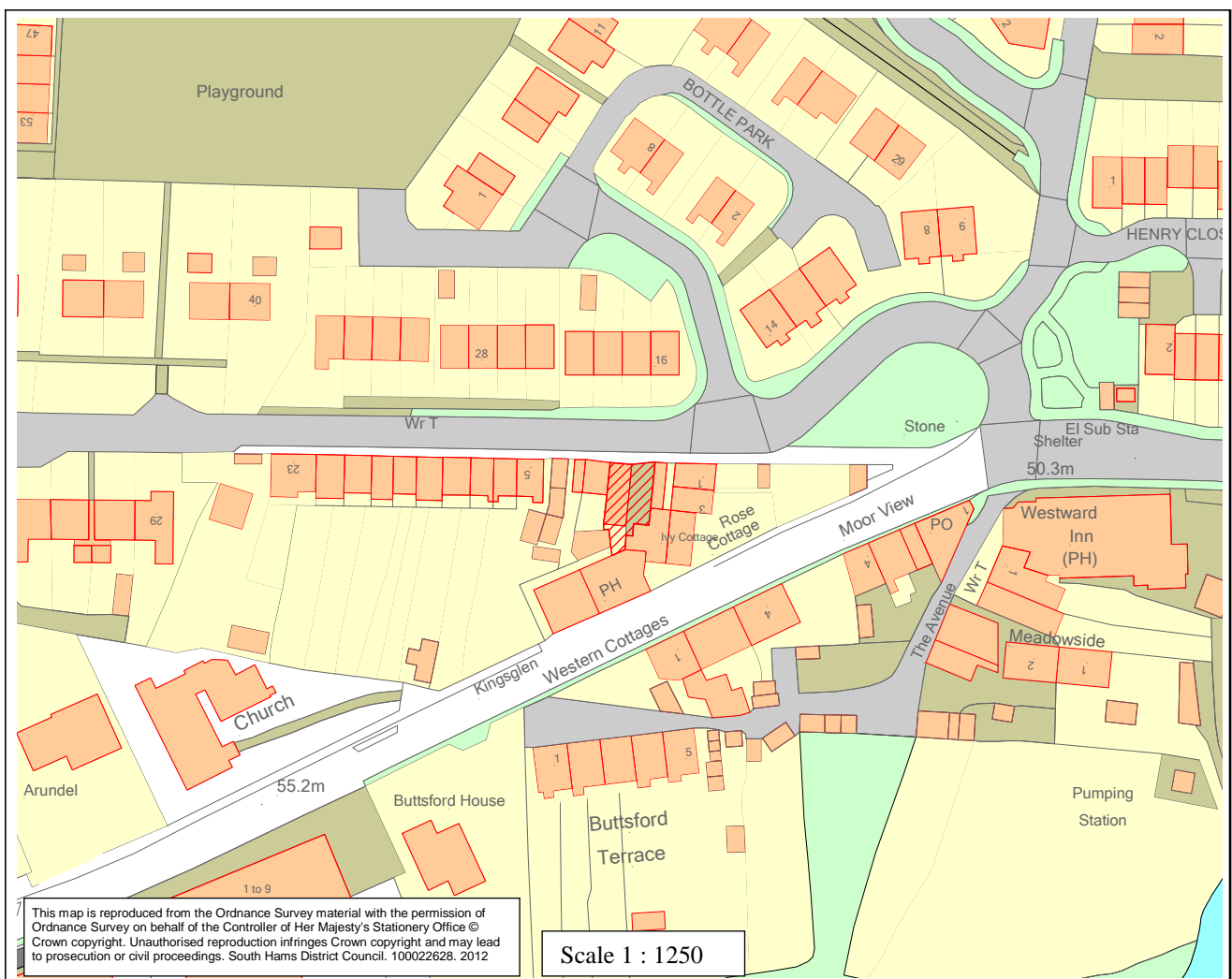
Moorhaven Ltd  
The Pottery  
Moorhaven  
Ivybridge, PL21 0HB

**Site Address:** Proposed development site at SX 5983 5575, rear of Lee Mill Inn, New Park Road, Lee Mill Bridge

**Development:** Conversion of redundant store building into 2no.1 bed dwelling units

**Reason item is being put before Committee**

Cllrs Baldry and Blackler have both requested that the application be brought to the Committee in view of the level of concern raised regarding the proposal.



**Recommendation:**  
Conditional Approval

**Conditions**

- Standard Time Limit
- Adherence to Plans
- Provision of Drainage Works
- Construction Management Plan
- Bats
- Cycle Provision
- Unexpected Contamination
- Materials
- Habitat Protection

**Key issues for consideration:** the principal considerations for this proposal are the potential impacts toward neighbouring amenity, impact towards local parking and highways and the standard of accommodation being provided.

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**Site Description:** Application site is located along the southern side of New Park Road, within the centre of the village of Lee Mill, located within the Parish of Sparkwell. The building was formerly used as a store when the building to the south of the site was used as a public house, known as the Lee Mill Inn. The building is 1 storey in height, with a slate hipped roof, and stone walls, and a small area of hard surfaced open amenity space.

**The Proposal:** This application proposes the conversion of the redundant rear store of the old Lee Mill Inn to 2.no, 1 bedroom self-contained flats with private entrances. Each flat will be provided a double bedroom, bathroom, kitchen and lounge/dinner. No significant alterations will occur to the external appearance of the building except for some additional fenestration to provide light into the flats.

**Consultations:**

- County Highways Authority – No objections as a less or equally intensive use as existing
- Environmental Health Section - No objections but recommends contamination condition be attached
- Parish Council - Objecting due to widespread local concerns of over-development of this small site creating pressure on the community and further aggravate parking problems
- Drainage – No Objections but request applicant liaises with South West Water and submit further details (Condition to be attached)
- Countryside and Community Projects Officer (Biodiversity) – No objections but development to adhere to advice in the Ecology Survey Report

## **Representations:**

A total of 27 Letter of Representation have been received with respect to this planning application. Of the 27 letters, 21 have objected and 6 have offered support. The letters are summarised below:-

### Objections

- Overdevelopment
- No provision of parking and Parking is already in short supply
- May cause unsafe highways conditions
- Impact bus route
- Increase congestion

### Support

- Less intensive use than when the building was a pub
- Providing much needed affordable housing in the area
- Sustainable location
- Helping younger people get on the property ladder
- Could create local jobs during the construction phase
- Less residential amenity issues than when area was used as a commercial garage and beer garden

## **Relevant Planning History**

49/1181/14CU – Change of Use redundant public house (Use class A4) and flat above to 2no. Dwellings (Use class C3) – Conditional Approval

## **ANALYSIS**

### Principle of Development/Sustainability

The application site is located in an area that has been identified though policy CS1 as acceptable in principal. The proposal also accords with policy CS5 which requests that 50% of new housing be built on previously developed land. Furthermore, officers are of the view that the development proposal accords with polices DP15 and DP16 of the Development Plan Document, and consideration of these two policies demonstrates a sustainable approach to delivering needed housing in this location.

### Design and Landscape:

The most significant alterations relating to this proposal are internal; with very little physical alteration to the external appearance. The addition of windows and doors do not detract from the character of the building, providing necessary light into habitable rooms. The internal layout is considered satisfactory to officers, providing a reasonable standard of accommodation of a reasonable size. It is the view of officers that this proposal accords with policy CS7 of the Core Strategy, and policy DP1 of the DPD.

Notwithstanding the fact that the proposal has not provided any additional outdoor amenity space other than the communal space currently in-situ; it is the view of officers that the development is within reasonable proximity to public outdoor amenity space that the lack of private outdoor amenity space is not of significant concern, and therefore the proposal accords with policy CS7.

The building has a low level of prominence, and the alterations will not cause the building to dominate the street scene, or detract from existing public vistas. Although the use of the building is proposed to change, its visual character will not be altered in a manner that detracts from its historic fabric, protecting the character of the area and the subsequent landscape. The proposal is therefore considered to accord with policy CS9.

#### Neighbour Amenity

The existing use of the building is as a store, and the land within which the building sits provided an area for patrons of the former Lee Mill Inn. It is the view of officers that the existing and previous uses would have had an increased impact towards neighbouring residential amenity; therefore the proposed use will not cause a loss in residential amenity with regards to noise and disturbance.

Officers are also of the view that the design and layout of the proposal will not cause any loss of privacy to neighbouring residents; and neither will it result in overlooking or light issues adjacent properties. The development has therefore showed consideration of policies CS7 and DP3.

#### Highways/Access

A significant number of Letters of Objection were received raising concern over the lack of parking provision and highways issues. This is a material planning consideration, it is the view of the Highways Officer that a development of this nature would usually generate the need for 2 parking spaces; however consideration has been given to the existing use class of the building and in theory it would generate a figure of 1 car space and 1 lorry space and would therefore be inappropriate to object.

Having reviewed the comments of the Highways Officer, and taken into consideration the views of objectors, it is considered that the proposal accords with policy DP7 and will not result in an unsustainable demand on parking, and will not cause prejudice to safe highway's movements along New Park Road. In officer's view, the proposed use is less intensive with regards to highways, access and parking and would therefore be an unreasonable reason for refusal.

Notwithstanding the comments above, the creation of dwelling units with the provision of no parking may encourage the use of alternative forms of sustainable transport in accordance with policy CS11. To enhance this, officers will request, by way of condition the provision of two secure, undercover cycle stores (1 per unit).

#### Wildlife

Having reviewed the submitted survey, and reviewed the consultation response from the Countryside and Community Projects Officer, it is considered that ecology/wildlife on the site will not be demonstrably harmed by this development and therefore the proposal will accord with Policy CS10.

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, and officers are of the view that this proposal is balanced, and demonstrates a plan to provide needed housing in an area where the principal of development is favourable, in accordance with the LDF Core Strategy.

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



## **Planning Policy**

### ***National Planning Policy Framework 2012***

#### ***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

#### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

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

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**Recommendation:** Conditional approval

## **Conditions**

Time

Accord with Plans

Retention of parking in perpetuity

Accord with landscape scheme

Details of foul discharge prior to commencement

Details of surface water soakaway prior to commencement

Section of green roof prior to commencement

Hardstanding finish material details prior to commencement

Cladding details prior to installation

Joinery details prior to installation

Natural stone sample panel

Work to conform to submitted tree protection measures

Removal of permitted Development Rights

Unsuspected contamination

## **Key issues for consideration:**

The main issues are the design, scale, appearance and visual impact of the development, its impact on the character and appearance of the Salcombe Conservation Area and wider AONB, any impact on the amenity of neighbouring dwellings, drainage, ecology, access and parking.

Officers acknowledge the location of the site within the Salcombe Conservation Area and also the positive contribution that these Victorian garden areas have within his sensitive historic environment. However, the specific location for the proposed dwelling is only readily viewable from Allenhayes Road. From that public vantage point the new dwelling will appear as an addition to a location already characterised by simple, utilitarian buildings of varying size, quality and age. The landscape scheme is well designed and will further assimilate the development into the townscape. For these reasons officers conclude that the development will preserve the character and appearance of Salcombe Conservation Area.

The addition of one more dwelling utilising the existing lane and access on to Allenhayes Road is not considered to constitute a severe impact on highways safety. Adequate parking provision is proposed.

Trees removed do not justify retention and trees of note are retained within the submitted landscape strategy. The impact on neighbouring properties is considered to conform to the level of amenity generally accepted within the locality. All other material planning considerations can be adequately addressed through planning conditions.

For the reasons outlined above this application is considered acceptable and in accordance with the relevant development plan policies. This application is therefore recommended for approval subject to appropriate conditions.

## **Site Description:**

The application site is the garden of a large Victorian villa called 'The Hollies' within Salcombe, The site is located within the Development Boundary and the Salcombe Conservation Area. It is also within the wider South Devon Area of Outstanding Natural Beauty.

The Hollies is one of the semi detached villas which characterise the area around Devon Road, which embodies the Victorian extension of the town. The streetscene is dominated by these high status, grand buildings which sit in generally large gardens which provide important green spaces and relief between the built forms.

The Hollies currently has all of its parking at this rear part of the site, accessed via a back lane. The presence of an historic stable nearby, now a dwelling, suggests that this back lane is at least contemporary with the villas. The lane is now used for vehicular access, and as such, there are a number of modern garage outbuildings in the area. The Hollies also has the remnants of what could have been a stable, at the rear.

### **The Proposal:**

Planning permission is sought for the demolition of the existing ruinous structure and erection of a new dwelling and installation of a raised parking area. The parking area will provide parking spaces to serve the new dwelling and replacement spaces to serve the existing Hollies building. Access would be from the existing rear lane.

The proposal is for a two bedroom house over two storeys, partially dug into the hillside. Bedrooms are located at the lower level, with living rooms and kitchen at first floor, which is actually ground floor level adjacent to the access road. The dwelling is simple and contemporary in form with render and cladding under a flat, green roof.

### **Consultations:**

- County Highways Authority

No objection – standing advice

- Environmental Health Section

Suggest unsuspected contamination condition

- Salcombe Town Council

*It was noted that this site was positioned on a little lane which ran from Allenhayes Road just below Coombehaven and fed on to several properties. Also the objections that had been placed on the District website by residents were noted wherein most felt it was not right for a Conservation Area and the current garden was being decimated. The proposal was to build a two storey dwelling with two parking spaces but noted this was to be at the bottom of the garden of The Hollies and infill the remainder of the current garden by creating further parking spaces for The Hollies. Objection as this was felt to be overdevelopment of the site by back garden development and therefore not appropriate in a Conservation Area and was increasing dwellings in this location. Town Council were concerned that this proposal would front an un-named un-adopted road. There were also slight concerns that the property being demolished, although in some disrepair, was generally a property that had architectural importance and it was requested that District investigate this assertion*

- SHDC Ecologist

No objection request informative regarding clearance of vegetation

- SHDC Tree Officer

No objection subject to condition ensuring compliance with Tree Protection Plan

### **Representations:**

14 letters of representation have been received at the time of writing this report, 12 letters objecting to the scheme and 2 letters in support. Concerns raised within the letters of objection which are material to the consideration of the application are summarised as follows

- The scheme will be harmful to the Conservation Area
- Will be harmful to the AONB
- The design is out of keeping
- Use of the lane and existing access is inappropriate
- The new dwelling would harmfully overlook and impact neighbouring properties
- The proposal represents overdevelopment of the site
- Will probably be a second home, bringing no housing benefit to Salcombe

Comments made in support of the application are summarised as follows:

- There are already buildings in this area of similar scale and form
- The scheme retains adequate garden space for The Hollies

### **Relevant Planning History**

9/41/1588/98/3 – Powderham Villa – Erection of new dwelling - Refused

41/1391/82/4 - The Hollies, Devon Road, Salcombe - Alterations and extension of Coach House – Refusal

41/0430/14/PREMIN – The Hollies, Devon Road, Salcombe - Pre-application enquiry for proposed erection of dwelling within the site curtilage with associated parking and garden areas – Officer support forthcoming on a without prejudice basis

41/0311/78/4 - Regularise present use as a holiday cottage - Conditional approval

### **Analysis**

#### **Principle of Development**

The site is located centrally within Salcombe and within the development boundary. As such, the principle of new residential development in this location is supported by policy, subject to all material planning considerations. The site is also in a sustainable location with regard to access to services, being well connected to the various services offered within the Town.

The existing structure to be demolished is of architectural and historic merit but is very small and in an extremely degraded, ruinous state. Due to its current state, small scale and relatively isolated location, this structure is not considered to have a significant enough positive contribution to the Conservation Area to enable officers to justifiably seek its retention.

#### **Design, scale and appearance and impact on Salcombe Conservation Area**

The application site is located sensitively within the Salcombe Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, when Authorities consider an application which affects a Conservation Area, *'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'*.

This need for this consideration is reflected at local planning policy level with adopted policies DP1, DP6, CS7 and CS9 of the Local Development Framework. The SHDC Salcombe Conservation Area Appraisal SPD also adds that *'The large historic land plots of Devon Road and Allenhayes allow room for lush planting fronting the roadside and landscaped and cultivated gardens to the rear, which also contribute to the townscape due to the steep terrain.'*

Clearly the large gardens which serve the villas along Devon Road are a fundamental element of the character, settlement pattern, grain and appearance of the Conservation Area and are therefore extremely sensitive to change. However, this is the largest of the gardens, with an irregular shape, with development potential in the far south western corner. This corner is not actually visible if viewed from the east and therefore cannot be seen from important public receptors along Devon Road and its associated pedestrian footpaths. The dwelling in this location will therefore have a neutral impact on the Conservation Area from these vantage points. The main view of the site is from oblique views when passing down Allenhayes. In addition as discussed further below, the subdivision is sensitively proposed, with a staggered boundary and the retention of notable existing trees and additional soft landscaping. This arrangement has been arrived at though pre-application discussions.

From this vantage point above the site, you are able to very clearly look across the rear elevations of the Devon Road villas and into their back gardens. The landscaped lawns are legible, and the surrounding area has a sylvan character. A back lane provides access down towards the site and officers would presume that this access lane has some provenance and was used for stable access in the 19C. This is evidenced by the presence of a small ruin within the Hollies site, which may have been a stable, and a more complete 19C utility building to the rear of the neighbouring villa.

There is therefore historic precedent of buildings being located at the rear of the garden areas. The existing historic building demonstrates that these would have been simple structures, utilitarian in appearance, with a simple palette of materials which would have contrasted with the larger, more finely decorated villas at the front of the sites. Furthermore, the historic outbuilding has been converted into a dwelling through the issuing of a planning permission in 1978.

Use of the back lane access has continued with cars replacing the horses. As a result, there are now a number of large modern garages in this area. The character of this part of the Conservation Area has therefore always been utilitarian, with a number of simple low profile buildings sitting within a sylvan context, located around, and served by, the back lane.

The proposed dwelling is considered acceptable within this context. The specific design takes clear reference from surrounding buildings and is itself simple, low profile and utilitarian. It will therefore be read as a simple addition to the existing built form within this location. After careful consideration, officers therefore conclude that the building will have a neutral impact on the character and appearance of the Conservation Area.

Although the new parking area constitutes an engineered structure within the garden, officers also acknowledge that it is not a new intervention, but the extension of an existing parking area

which, along with parked cars, is already visible from the public realm. In addition, the plans have been revised at officer request to reduce the size of this area, and allowing more scope for planting along its western edge. This planting can provide a level of screening which will effectively screen the parking platform from views at Allenhayes Road, and partially screen the dwelling beyond whilst being consistent with the high levels of structural domestic type planning already present in these rear gardens. Similarly the materials proposed are in-keeping with the vernacular and are conditioned to ensure high quality materials, such as are required in the conservation area, are achieved.

### **Access and Highways**

Officers acknowledge the limitations of the access from the lane onto Allenhayes Road and also that this has led to refusals in the area during the 1980s and 1990s. However, planning policy has changed in the intervening years, most notably at a national level, where the NPPF now obligates authorities to only refuse applications '*on transport grounds where the residual cumulative impacts of development are severe.*'

In this instance, the addition of one new modest-sized dwelling served by the existing access lane is not considered to intensify use of this access to a degree which could be considered 'severe'. In addition, the highways officer has issued no objection to the proposal, instead requesting consideration of the DCC Standing Advice.

### **Re-landscaping and impact on trees**

The subdivision of the site and building work requires re-landscaping of the existing rear garden. However, as above, the subdivision is considered by officers to be sensitively proposed, with soft, discrete boundary treatments and the retention of existing trees of note. The Council's tree officer has considered the proposal and is not objecting to the loss of other trees which are not of significant public amenity value subject to conditions ensuring compliance with the submitted tree protection plans.

Officers are of the opinion that the subdivision of the rear garden has been designed in such a way that it will not be easily distinguishable when viewed from public areas. The allocated external amenity area for both dwellings is considered adequate. In fact, due to the central location and relatively small scale of the unit, officers would potentially have supported no/more limited external curtilage for the new dwelling. In this case the introduction of the small area of garden space is motivated by the desire to achieve an appropriate neighbour relationship between the two units by ensuring that overlooking is predominately into garden areas serving the new dwelling.

### **Ecology**

The Council's specialist ecologist has considered the ecological implications of the development and has concluded that no objection is necessary, subject to an informative highlighting to the applicant the potential sensitivity of the site during vegetation clearance.

### **Drainage**

The submitted plans indicate that soakaways will be provided on site, within the rear garden area. In addition, the proposal incorporates a green roof which will also deal with surface water. Officers conclude that the drainage details are acceptable subject to the addition of conditions requesting further technical detail regarding foul and surface water discharge and



requiring a technical section of the green roof to demonstrate its effectiveness in providing surface water soak away and its correct design for success in the area and climate.

### **Neighbour impact**

Officers have carefully considered the impact of the proposed development on the amenity of all neighbouring properties. The starting point for this assessment is policy DP3. Importantly, policy DP3 states that the impact on neighbouring properties must be *'judged against the level of amenity generally accepted within the locality...'*

In this instance, the surrounding area is punctuated by high levels of mutual overlooking between properties and from the access lane and Allenhayes Road down into back garden areas. In addition, as previously noted, the former stable building serving the neighbouring villa has already been converted, and therefore there already exists a similar relationship between two separate properties within the locality.

Overlooking towards Springfield Villa is certainly in conformance with existing neighbour relationships. Overlooking from the new unit will be largely past the Hollies or towards its southern elevation, which contains only a single obscure glazed window. The dwelling will be no higher, and therefore have no greater an impact, than the shared vegetation on the south eastern property. The proposal will therefore have no materially harmful impact on the villa to the south east.

After careful consideration, officers conclude that the neighbour impact associated with this development conforms to the level of amenity generally accepted within the locality, with no materially harmful additional overlooking, dominance or loss of light which could constitute a material reason to refuse the application which could be sustained at any subsequent appeal. Similarly the proposed dwelling will benefit from an adequate level of privacy and private space,

### **Neighbouring site history**

Officers acknowledge the refused application for a new dwelling at Powderham Villa in 1998, which is a site nearby on Devon Road. However, that application differed from this for a number of reasons. In particular, the garden size and shape is different to that serving the Hollies, the proposed dwelling was located in a different position, with a different scale and design. In addition, the rear garden of Powderham Villa contributes differently to the Conservation Area. In the intervening years a number of domestic garages have also been approved and constructed in this immediate area which has changed the character and pattern of this part of the Conservation Area.

Officers are still duty bound to consider the specific merits of this application and reach a balanced recommendation. Similarly officers have considered the refused application for conversion of the ruinous stable in 1982. The planning system was greatly different in the early 1980s and subsequently less weight must be given to this application. Officers have carefully considered this current application with regard to extant local and national planning policy and conclude, on balance, that it can be supported.

### **Conclusions**

The main issues are the design, scale, appearance and visual impact of the development, its impact on the character and appearance of the Salcombe Conservation Area and wider

AONB, any impact on the amenity of neighbouring dwellings, drainage, ecology, access and parking.

Officers acknowledge the location of the site within the Salcombe Conservation Area and also the positive contribution that these Victorian garden areas have within his sensitive historic environment. However, the specific location for the proposed dwelling is only readily viewable from Allenhayes Road. From that public vantage point the new dwelling will appear as an addition to a location already characterised by simple, low profile utilitarian buildings of varying qualities and ages. The landscape scheme is well designed and will further assimilate the development into the townscape. For these reasons officers conclude that the development will preserve the character and appearance of Salcombe Conservation Area.

The addition of one more dwelling utilising the existing lane and access on to Allenhayes Road is not considered to constitute a severe impact on highways safety. Adequate parking provision is proposed.

Trees removed do not justify retention and trees of note are retained within the submitted landscape strategy. The impact on neighbouring properties is considered to conform to the level of amenity generally accepted within the locality. All other material planning considerations can be adequately addressed through planning conditions.

The siting of the proposed dwelling is wholly within the developed area of Salcombe and, as such, is read against this development in all views. For this reason its impact on the AONB is considered negligible and acceptable

For the reasons outlined above this application is considered acceptable and in accordance with the relevant development plan polices. This application is therefore recommended for approval subject to appropriate conditions.

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

## **Planning Policy**

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

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

### **Development Policies DPD**

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP5 Conservation and Wildlife

DP6 Historic Environment

DP7 Transport, Access & Parking

### **Salcombe Conservation Area Appraisal SPD**

## **National Planning Policy Framework**

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

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

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**Recommendation:** Conditional approval

### **Conditions**

Time

Accord with plans

Schedule of materials and finishes prior to commencement of development

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

The main issues are the principal of a new A1/A3 use within this location, any impact on the character and integrity of nearby designated heritage assets, Salcombe Conservation Area, the AONB and any impact on the amenity of neighbouring properties

The proposed use within this central, established public area can be supported. The cafe use within this already highly public location will have a neutral impact on the setting of designated heritage assets. The site is well isolated from neighbouring dwellings and will therefore have no harmful impact on the amenity of neighbouring properties.

### **Site Description:**

The application site is a redundant public convenience accessed through Cliff House Gardens, the principal public green space within this part of the Town. Due to its central location the site is within the setting of a number of listed buildings and undesignated heritage assets. Most notably, the site is in extreme proximity to the undesignated, but hugely important, war memorial, which is at road level above the site.

The site is within the Salcombe Development Boundary, the Conservation Area and also within the South Devon Area of Outstanding Natural Beauty.

### **The Proposal:**

Planning permission is sought for the change of use of a single storey, redundant public convenience to a cafe/cold food takeaway facility and the creation of an adjacent seating and decking area (A3/A1). Associated alterations include perched seating on the existing wall, signage at road level, awning and timber doors and windows. The proposed unit is very small and essentially amounts to a kiosk under the existing stairway.

### **Consultations:**

- English Heritage

Application should be considered in accordance with national and local policy guidance, and on the basis of SHDC specialist conservation advice

- Salcombe Town Council

*Objection – Town Council could not consider this application and sought clarification as the plans were not accurate. The application stated windows and doors in brown upvc and yet the plans indicate hardwood. Town Council were opposed to upvc in the Conservation Area and were concerned about the plethora of street signs and awning also proposed. The plans illustrated three perch seats which were low walls currently within Cliff House Gardens and*

*one such position was beneath the information board which needed to remain unobstructed. A concern also was that the ground outside where this seating area was proposed was uneven for such potential use. There was a local objection from another shop owner with regard to competing with his newly established business.*

### **Representations:**

One letter of objection has been received at the time of writing this report. This is essentially a trade objection which cannot be considered material to the determination of this application

### **Relevant Planning History**

None

### **Analysis**

This is a park well used by the public for its recreational qualities and also to enjoy the vista of the estuary. The proposed use is considered to be acceptable within this context and is not considered to be materially different or out of place when compared to this established use. Use of high quality materials is important in this area and that is reflected in the planning conditions requesting further detail with regard to construction materials and form.

Officers acknowledge the comments made within the received third party representation. However, this essentially amounts to a trade objection and is well document that commercial competition is not a material reason to refuse a planning application.

This is a central location and the proposal will not jeopardise the vitality of Salcombe Town Centre. It will have no harmful impact on designated or undesignated heritage assets. The site is well away from the nearest residential dwelling and will have no harmful impact on neighbour amenity.

Officers are satisfied that the signage proposed will not amount to clutter or detract from the streetscene or wider Conservation Area. This is following the removal of the lamppost signs which were, in isolation, considered to be harmful. Overall the scheme is considered to preserve the character and appearance of Salcombe Conservation Area

This is a small enterprise within a central location and therefore designated parking is not required. The small scale development will also have no harmful impact on the wider South Devon AONB.

Other concerns raised by the Town Council are more appropriately considered by the estates team as they would not constitute a material reason to refuse the application.

For the reasons outlined above this application is considered acceptable and in accordance with the relevant development plan polices. This application is therefore recommended for approval subject to appropriate conditions.

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

## **Planning Policy**

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

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

### **Development Policies DPD**

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP6 Historic Environment

DP7 Transport, Access & Parking

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

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



## SOUTH HAMS DISTRICT COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE **Wednesday, 29 July, 2015**

PLANNING APPEALS UPDATE (18-Jun-2015 to 17-Jul-2015)

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**APPLICATION NO :** 17/1332/14/VAR  
**APPELLANT :** Ms C Furini  
**PROPOSAL :** Removal of condition 3 of approval 17/1854/11/F to allow business use of stables  
**LOCATION :** Land at SX 758 534, Farleigh Meadows, Moreleigh  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 13-Mar-2015  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 18-Jun-2015

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**APPLICATION NO :** 17/1333/14/VAR  
**APPELLANT :** Ms C Furini  
**PROPOSAL :** Removal of condition 4 of approval 17/0507/13/F to allow business use of sand school  
**LOCATION :** Land at SX758 534, Farleigh Meadows, Higher Farleigh, Moreleigh, Totnes TQ9 7JW  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 13-Mar-2015  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 18-Jun-2015

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**APPLICATION NO :** 17/1334/14/F  
**APPELLANT :** Ms C Furini  
**PROPOSAL :** Erection of key worker's chalet for equestrian business use (resubmission of 17/0420/14/F)  
**LOCATION :** SX758, 534, Farleigh Meadows, Moreleigh, Totnes, TQ9 7JW  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 13-Mar-2015  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 18-Jun-2015

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**APPLICATION NO :** 13/1794/14/AGDPA  
**APPELLANT :** Mr M Rutter  
**PROPOSAL :** Prior approval of proposed change of use of agricultural building to dwelling house  
**LOCATION :** Lambing Barn, Allaleigh, Totnes, TQ9 7DN  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 18-Feb-2015  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 19-Jun-2015

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**APPLICATION NO :** 15/2960/14/F  
**APPELLANT :** Kingscliffe Property Co.  
**PROPOSAL :** Householder application for replacement of existing sash windows with PVC replacement sash windows to match existing in design & appearance  
**LOCATION :** 2 Smith Street, Dartmouth, TQ6 9QR  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 3-Mar-2015  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 24-Jun-2015

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**APPLICATION NO :** 49/0853/14/F  
**APPELLANT :** Boringdon Golf Club  
**PROPOSAL :** Erection of a single wind turbine (estimated output of 500kw) with a 50m hub height, 77m tip height with associated infrastructure and formation of access track  
**LOCATION :** Proposed Wind Turbine at SX 5332 5789, Boringdon Park, Plympton, Plymouth  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 1-Dec-2014  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 29-Jun-2015

# SOUTH HAMS DISTRICT COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE **Wednesday, 29 July, 2015**

PLANNING APPEALS UPDATE (18-Jun-2015 to 17-Jul-2015)

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**APPLICATION NO :** 41/2361/14/F  
**APPELLANT :** Mr R Brewster  
**PROPOSAL :** Erection of single dwelling with associated landscaping and access  
**LOCATION :** The Ridings, Bennett Road, Salcombe, TQ8 8JJ  
**APPEAL STATUS :** **APPEAL LODGED**  
**APPEAL START DATE :** 1-Jul-2015  
**APPEAL DECISION :**  
**APPEAL DECISION DATE :**

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**APPLICATION NO :** 13/2537/14/AGDPA  
**APPELLANT :** Mr M Rutter  
**PROPOSAL :** Prior approval of proposed change of use of agricultural building to dwelling house  
**LOCATION :** Lambing Barn, Allaleigh, Totnes, TQ9 7DN  
**APPEAL STATUS :** **APPEAL LODGED**  
**APPEAL START DATE :** 3-Jul-2015  
**APPEAL DECISION :**  
**APPEAL DECISION DATE :**

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**APPLICATION NO :** 08/0600/13/F  
**APPELLANT :** Clearwinds Ltd.  
**PROPOSAL :** Resubmission of planning application 08/1968/12/F for erection of 1 wind turbine (0.90MW) up to 78 metres tip height and associated infrastructure for a period of 25 years  
**LOCATION :** Higher Torr Farm, East Allington, Totnes, TQ9 7QN  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 22-May-2014  
**APPEAL DECISION :** Dismissed - (REFUSAL)  
**APPEAL DECISION DATE :** 06-Jul-2015

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# Agenda Item 8

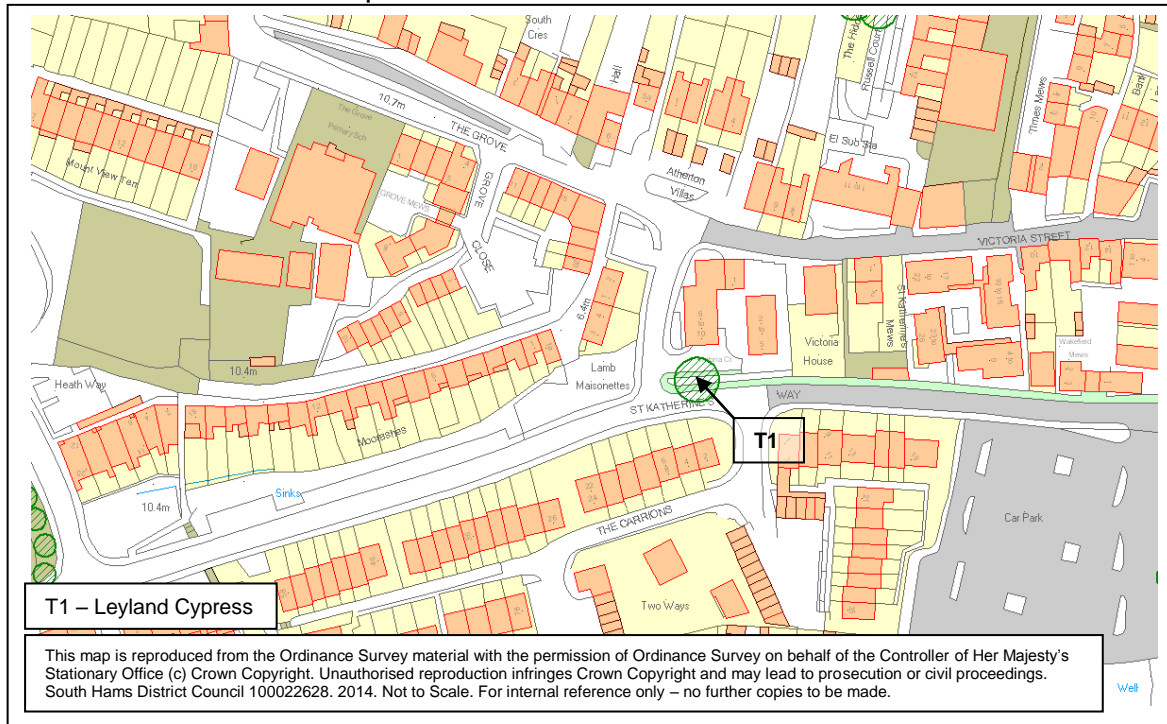
## TREE PRESERVATION ORDER REPORT; SHDC (Parish of Totnes) (No. 916) TPO 2015

TPO REF: SHDC (Parish of Totnes) (No. 916) TPO 2015

LOCATION: Unregistered land on verge, St Katherine's Way, Totnes

PARISH: Totnes WARD: Totnes

DATE TPO MADE: 23 April 2015



## PROPOSAL

A provisional Tree Preservation Order (TPO) has been made on a single Leyland Cypress (*Cupressus x leylandii*) (T1). This is an evergreen conifer and is situated on a narrow retained verge immediately adjacent to Victoria Court off ST Katherine's Way, Totnes.

Local Ward Members were consulted and requested the tree should be protected in response to local concerns that it was to be felled and that the decision over confirming or not confirming the Order should be referred to the Development Management Committee.

The Council assessed the tree and officers concluded that given its expected future growth and position that there is a high risk of foreseeable damage and nuisance resulting from root expansion and wind throw.

The Council has received one objection to the provisional TPO from Devon and Cornwall Housing concerned about safety and potential damage to the adjacent DCH owned property.

Totnes Town Council and the local tree warden support confirmation of the TPO.

The Council has powers and duties to protect trees of significant public amenity value. These powers in relation to Tree Preservation Orders are in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

**RECOMMENDATION: Tree Preservation Order 916 is NOT CONFIRMED.**

## Notifications:

1. Adjacent land owner - One objection – the TPO should not be confirmed
2. Local resident – support for confirmation of the TPO
3. Totnes Town Council and tree warden - support confirmation of the TPO

## BACKGROUND, SITE AND SURROUNDINGS

The Council received a request from a local resident to place a TPO on a Leyland Cypress on unregistered land next to St Katherine's Way because Devon and Cornwall Housing had notified residents within Victoria Court that the tree was to be felled. The tree is on a narrow retained verge immediately adjacent to Victoria Court and concern had been raised over its safety and potential damage to the DCH property should it be blown over.

Following the TPO request the Council undertook an assessment of the tree using the Council agreed pro-forma (Appendix 1). This was carried out by both an SHDC Specialist and an external Arboricultural consultant. The procedure provides a systematic approach to assessing public amenity value and suitability for inclusion in a TPO. The procedure includes:

- A series of steps to assess level of public amenity, suitability of condition, likelihood of tree causing damage and likelihood of threat to the tree. All steps must be addressed.
- A cumulative score that gives an indication of 'significance' of the tree(s) and thresholds of suitability for long term protection based on that significance.

The assessment received an initial score of 11 and 10 respectively which is on the threshold for consideration when deciding to serve a TPO (Score 11 to 14 – moderate amenity value – consider TPO; 15-18 – High amenity value – serve a TPO). This is fundamentally due to the assessment at Part 4 receiving a score of 1 because it is anticipated that there will be '*unmanageable structural damage or nuisance*'. A score of 1 in Part 4 means that no further assessment should be made because a TPO should not be served.

Part 4: *Location and future structural damage potential* – forms part of the assessment as it is important that the Council understands if there are any foreseeable problems that will result from the tree being retained into the future. Officers considered the position of the tree on the narrow verge, the relationship to the building close by (Victoria Court) and the effects of the root system on adjacent structures. The roots are within a narrow 2.2m wide verge with a low retaining wall to the north and a public highway with footpath to the south. Specific concern is raised over:

- the roots damaging the retaining wall (actual nuisance) which is foreseeable as the tree continues to grow;
- due to the height and wind-sail area of the evergreen canopy and the restricted root growth, that it is highly susceptible to wind throw (blowing over);
- the Council will be liable to Compensation if on a claim under the regulation, *a person establishes that loss or damage has been caused or incurred in consequence of — (a) the refusal of any consent required under these Regulations;*

The principle objective of serving a TPO is to protect a tree because of its significant public amenity and the contribution it makes to the local character of the area. Officers can, in addition to this, consider other contributing factors but importantly, these alone would not warrant making an Order. The request to protect the tree is related to its ability to intercept and filter air pollution.

Following the initial decision not to serve the TPO, additional requests to protect the tree were received from Totnes Town Council and the local tree warden. On this basis the local Ward Members were consulted and as a result Members requested the tree should be protected in

response to local concerns and in particular that the decision over confirming or not confirming the Order should be referred to the Development Management Committee.

The Council has received a TPO application to fell the tree; this will be determined subject to the outcome of this item.

The Council has received one objection to the provisional TPO.

#### **THE SUPPORTERS REPRESENTATIONS:**

The supporter's letter for serving and confirming the TPO can be summarised as follows: (A full version of the letter of support can be seen in Appendix 2. This is a direct response to the objector's letter (Appendix 3)). The Town Council and local tree warden also support confirming the TPO (Appendix 4).

The supporter's points are as follows (*in italic*) with the case officer's comments afterwards;

1. *Removal of the tree will result in an extra 1kg of particulate pollution remaining in the atmosphere*
2. *Adjacent trees are not evergreen, do nothing to clean air during winter and have little screening benefit and have lesser public amenity (sic)*
3. *Removal of CO<sub>2</sub> and particulates is of great benefit and Leyland cypress are one of the best species at doing this; more large trees are needed in Totnes*
4. *The wall is currently undamaged next to the tree*
5. *The tree roots are deep rooting making it stable*
6. *Supports wildlife*
7. *It is a beautiful tree*

The Council fully acknowledges the benefits trees bring to the environment in terms of pollution filtration. Tree roots require both oxygen and water so root in the upper layer of soils normally to a maximum depth no greater than 60cm to 1m.

#### **THE OBJECTION REPRESENTATIONS:**

Since the Order was made and served, one formal objection has been received as follows: (A full version of the corresponding letters of objection can be seen in Appendix 3.)

##### **1. Representative of adjacent land owner**

The full objection is contained within a letter of the 21<sup>st</sup> May 2015. It is summarised as follows:

The objector's points are as follows (*in italic*) with the case officer's comments afterwards;

1. *Although visibly prominent, removal of the T1 would not have a significant detrimental impact upon public amenity.*
2. *The retention of T1 over the short and medium term will suppress and disfigure the growth of two smaller trees (Horse Chestnut and Walnut) which will have significantly greater amenity value.*
3. *Climate change mitigation and the interception of pollution are not appropriate measures to determine the public amenity value of an isolated single tree.*
4. *The location is not appropriate for the long term retention of such a large species; risks to structures, shading, domination and whole tree failure will be ongoing concerns.*
5. *Other trees (Horse Chestnut and Walnut) provide greater potential for long term public amenity, without the associated damage or nuisance.*

6. *DCH are a reasonable, proactive landowner. The decision to remove the tree was a considered one that balanced issues of arboriculture and public amenity. The planned work is consistent with good arboricultural practice and confirmation of the order is therefore not expedient in the interests of public amenity.*

The Council have assessed the Leyland Cypress independently and note the objector's points. The key point of discussion is the foreseeable damage and nuisance from the Leyland Cypress identified in Point 4 and 5 above.

## **CONCLUSION**

The issue for Members to consider is the merit of protecting the Leyland Cypress (T1) as scheduled in the provisional Tree Preservation Order 916.

The Leyland Cypress is located on St Katherine's Way adjacent to Victoria Court, Totnes. It is situated in a narrow retained verge with Victoria Court to the north and a public highway to the south.

The key support for confirming the Tree Preservation Order is based upon the important role the tree plays in filtering CO<sub>2</sub> and particulates from the adjacent highway. Whilst a factor for consideration this point would not warrant the serving of an Order.

The tree has been assessed by the Council and this concluded that there is a foreseeable risk of damage and nuisance to the adjacent property; this includes a retaining wall and flats owned and managed by Devon and Cornwall Housing. The tree itself has low visual amenity value and other immediate adjacent trees would maintain the overall treed nature of this verge. The damage and nuisance will result from continued root growth and leverage of the crown increasing the risk of failure and the tree being blown over. The Council may be liable to Compensation as a result of damage caused by the tree if in the future it refuses consent for the tree to be felled.

In consideration of all the factors set out above and Government guidance, the Council recommends that Tree Preservation Order 916 is NOT CONFIRMED.

## Appendix 1

### a) – SHDC Assessment

#### Tree Preservation Order Assessment Procedure

This procedure is to be used to assess trees being considered for protection under a Tree Preservation Order. The procedure provides a systematic approach to assessing public amenity value and suitability for inclusion in a TPO. The procedure includes

- A series of steps to assess level of public amenity, suitability of condition, likelihood of tree causing damage and likelihood of threat to the tree. All steps must be addressed.
- A cumulative score that gives an indication of “significance” of the tree(s) and thresholds of suitability for long term protection based on that significance.

<b>Site:</b> Narrow highway verge adjacent to Victoria Court Totnes
<b>Owner:</b> Unknown, adjacent land owned by and managed by DCH
<b>Tree(s type):</b> Individual – Leyland Cypress
<b>Tree Species:</b> X Cuprocypris leylandii
<b>Surveyor:</b> A Whish
<b>Date:</b> 11 <sup>th</sup> March 2015

#### Part 1. Anticipated size of crown at maturity (Crown height x width – excluding clear stem)

This assessment must score 3 or more to continue to part 2

Very large - (200m <sup>2</sup> +)	<b>5</b>	5
Large - (100-200m <sup>2</sup> )	<b>4</b>	
Medium - (30-100m <sup>2</sup> )	<b>3</b>	
Small – (5-30m <sup>2</sup> )	<b>2</b>	
Very small - (2-5m <sup>2</sup> )	<b>1</b>	

#### Part 2. Public amenity Value

The assessment must score 3 or more to continue to part 3.

Great - <i>principle feature of public place</i>	<b>5</b>	
Considerable- <i>prominent individuals</i>	<b>4</b>	3
Some- <i>road, park, path, grounds</i>	<b>3</b>	
Little- <i>woods, back gardens, groups</i>	<b>2</b>	
Very little- <i>seen with difficulty or v small</i>	<b>1</b>	

#### Part 3. Condition and anticipated life expectancy (Based on BS 5837:2012 categories)

The assessment must score 1 or more to continue to part 4

High	At least 40 years anticipated life expectancy	<b>3</b>	
Moderate	At least 20 years anticipated life expectancy	<b>2</b>	2
Low	At least 10 years anticipated life expectancy	<b>1</b>	
Poor	Under ten years life expectancy	<b>0</b>	

#### Part 4. Location and future structural damage potential

The assessment must score 2 to continue to part 5

No anticipated unmanageable structural damage or nuisance	<b>2</b>	
Anticipated unmanageable structural damage or nuisance	<b>1</b>	1

**Part 5. Expediency**

The assessment must score 2 or more to continue to part 6

Immediate threat to tree(s)	<b>3</b>	
Perceived threat to tree(s)	<b>2</b>	
No known threat to tree(s)	<b>1</b>	

**Part 6. Assessment**

Initially calculate the total score as follows

Total Score = 1+2+3+4+5 =

Assess for suitability in line with following scores

Score	Significance of Amenity Value	Suitability for TPO
15 -18	Very High	Serve TPO
11-14	Moderate	Consider serving TPO

**Note 1.** Where the assessment includes a score of 2 on part 5 the Council must carefully consider the likely level of threat before serving a TPO. The Council is clearly guided not to serve TPOs where landowners are demonstrating good management of trees. The fact that a landowner is proposing tree works or felling is not, in itself, a sign of poor management – and indeed may be the opposite.

Officer Comments (including any unusual factors that support, or detract, from the serving of a TPO and in particular)
<p><b>Suitability to the setting</b>                  Poor – the tree is growing in a narrow verge which is retained on the northern side by an 800mm high wall. The wall has not failed yet but given the expected growth and potential mature size there is a clear risk of damage to the wall causing an actionable nuisance.</p>
<p><b>Presence of other trees</b>                  A smaller horse chestnut is located to the west with the same verge but given the sloping land, the retaining wall is lower at this point.</p>
<p><b>Form of the tree</b>                  Conical and natural form, some minor shaping to lower crown in the past</p>
<p>Screening value - Some screening of Victoria Court</p>
<p><b>Any other factors</b>                  In consideration of the points raised above there is a clear risk of failure to the wall and to the tree suffering wind throw towards the property or highway. It is the officer’s professional view that given the location of the tree, there is an unacceptable risk of failure if left unmanaged. In light of the need for significant management and clear risk of damage to the neighbouring property it is not reasonable or appropriate to serve a TPO. The Horse Chestnut can be retained with some management so also would not warrant a TPO at this stage and is not currently under threat, and is likely to be retained. The coping is already being damaged.</p>
<p><b>Should a TPO be served?</b>                  NO</p>



## b) External Consultant's Assessment

### Tree Preservation Order Assessment Procedure

This procedure is to be used to assess trees being considered for protection under a Tree Preservation Order. The procedure provides a systematic approach to assessing public amenity value and suitability for inclusion in a TPO. The procedure includes

- A series of steps to assess level of public amenity, suitability of condition, likelihood of tree causing damage and likelihood of threat to the tree. All steps must be addressed.
- A cumulative score that gives an indication of "significance" of the tree(s) and thresholds of suitability for long term protection based on that significance.

<b>Site:</b> Tree at junction of St Katherine's way and Victoria Court
<b>Owner:</b> Land adjacent to Devon and Cornwall Housing
<b>Tree(s type):</b> Individual
<b>Tree Species:</b> Leyland Cypress ( <i>Cupressus x leylandii</i> )
<b>Surveyor:</b> SPUTT
<b>Date:</b> 24 <sup>th</sup> March 2015

#### Part 1. Anticipated size of crown at maturity (Crown height x width – excluding clear stem)

This assessment must score 3 or more to continue to part 2

Very large - (200m <sup>2</sup> +)	<b>5</b>	
Large - (100-200m <sup>2</sup> )	<b>4</b>	4
Medium - (30-100m <sup>2</sup> )	<b>3</b>	
Small – (5-30m <sup>2</sup> )	<b>2</b>	
Very small - (2-5m <sup>2</sup> )	<b>1</b>	

#### Part 2. Public amenity Value

The assessment must score 3 or more to continue to part 3.

Great - <i>principle feature of public place</i>	<b>5</b>	
Considerable- <i>prominent individuals</i>	<b>4</b>	4
Some- <i>road, park, path, grounds</i>	<b>3</b>	
Little- <i>woods, back gardens, groups</i>	<b>2</b>	
Very little- <i>seen with difficulty or v small</i>	<b>1</b>	

#### Part 3. Condition and anticipated life expectancy (Based on BS 5837:2012 categories)

The assessment must score 1 or more to continue to part 4

High	At least 40 years anticipated life expectancy	<b>3</b>	
Moderate	At least 20 years anticipated life expectancy	<b>2</b>	
Low	At least 10 years anticipated life expectancy	<b>1</b>	1
Poor	<b>Under ten years life expectancy</b>	<b>0</b>	

#### Part 4. Location and future structural damage potential

The assessment must score 2 to continue to part 5

No anticipated unmanageable structural damage or nuisance	<b>2</b>	
<b>Anticipated unmanageable structural damage or nuisance</b>	<b>1</b>	<b>1</b>

**Part 5. Expediency**

The assessment must score 2 or more to continue to part 6

Immediate threat to tree(s)	3	
Perceived threat to tree(s)	2	
No known threat to tree(s)	1	

**Part 6. Assessment**

Initially calculate the total score as follows

Total Score = 1+2+3+4+5 = 10

Assess for suitability in line with following scores

Score	Significance of Amenity Value	Suitability for TPO
15 -18	Very High	Serve TPO
11-14	Moderate	Consider serving TPO

**Note 1.** Where the assessment includes a score of 2 on part 5 the Council must carefully consider the likely level of threat before serving a TPO. The Council is clearly guided not to serve TPOs where landowners are demonstrating good management of trees. The fact that a landowner is proposing tree works or felling is not, in itself, a sign of poor management – and indeed may be the opposite.

Officer Comments (including any unusual factors that support, or detract, from the serving of a TPO and in particular)
<p>Suitability to the setting-</p> <p>The tree is a standalone mature Leyland cypress which suits the urban environment. It is growing on a narrow verge which is retained on the northern side by a low wall. The tree is growing within 1m of the wall and the top course of bricks is being pushed out due to the build up of organic material and fibrous roots from the tree.</p> <p>The tree at its current height, spread and basal diameter is considered to be outgrowing its position.</p>
<p>Presence of other trees-</p> <p>Moderate level of tree cover in the vicinity to the west (row of poplars), south (ornamental trees on bank) and the north (privately owned trees on the Grove).</p>
<p>Form of the tree-</p> <p>Fair form for tree of species and age. Multiple primary stems and included forks noted at secondary branch points.</p>
<p>Screening value-</p> <p>The tree has screening value for the properties to the north of the tree.</p>
<p>Any other factors-</p> <p>The tree has the potential in the short and long term to cause damage to a structure (retaining wall) which <u>could not</u> be managed through pruning of the tree.</p> <p>Although the tree is large, through its height and spread, the impact of its removal will be low due to the supporting vegetation within the immediate visual area.</p>
<b>Should a TPO be served? No</b>

## **Appendix 2**

Ref: TPO 916 Cypress Leylandii, St Katherine's Way "T1" 29th May 2015  
Re. objections raised by Aspect Tree Consultancy:

- 1 Removal of this tree would have a significant detrimental impact on the community. Specifically an extra 1Kg of particulate pollution will be dumped into the atmosphere each year, especially in the grounds of Victoria Court.
- 2 The Horse Chestnut and Walnut are not evergreen trees and do nothing to clean the air during the winter. The Horse Chestnut is young and the Walnut is also a small tree. There is no significant impact from these trees on pollution and little screening benefit.
- 3 This statement has no logic whatsoever. The removal of CO<sub>2</sub> and particulates is a huge benefit and Cypress Leylandii is one the best species for this.
- 4 This is a generalised statement which could be said to be true of any tree near a building. With regard to "shading" there is no one to the North of this tree besides me. It is a large tree. That is what is needed to absorb pollution and screen the residents of Victoria Court from the ever increasing flow of heavy traffic. More large trees are needed in our town.
- 5 As already stated the other trees do not provide any screening or pollution absorption and have a lesser public amenity.
- 6 I was told that the decision on the Cypress Leylandii was made by "Asset Management" at DCH and the reason for felling it was because it might damage a wall. There is no present visible damage to the wall that could be caused by the Cypress.

### **DETAIL**

1) I am in general agreement with the description which notes that the tree is healthy.

The Horse Chestnut is to the west. To the east, immediately is a Rowan (I think) which is omitted from the text. Then some ten yards from the Cypress is one of three Walnut trees. This Walnut has been pruned badly and unnecessarily by DCH when they took back the entire verge with a hedge trimmer.

2) Part of the government guidelines are quoted omitting any part referring to pollution mitigation. These are guidance notes and local authorities are given discretion.

3) The author expresses his opinion. He doesn't like Cypress Leylandii. DCH have said to me that they should be "eradicated from the planet". They are the best particulate remover. Plant more by your roads.

### **Pollution and Climate Change Mitigation**

The author is wrong. The impact of "one individual tree over another" is measurable and hugely significant. The study by Professor Gail Taylor at Southampton University has shown that large trees are better at absorbing pollution than small ones and that one of the best is Cypress Leylandii because of its fine leaf structure.

*Aspect say that "Trees are particularly beneficial as interceptors of particulate pollution at "hot spots" where the receptor is close to the source of emissions; frequently first floor windows immediately adjacent to a section of congested highway"*

This Cypress is adjacent to what is now a very busy main road, St Katherine's way, which is clogged with static nose-to-tail traffic at rush hours and all day on bank holidays and in the high season, especially on what are called "changeover days". In other words this tree is in a "Hot Spot" exactly,

and doing a very good job. Trees such as Cypress Leylandii are known as "hyperaccumulators" because of the impressive amount of toxins they remove. There is software available to calculate the monetary value of this particular tree:

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Yearly ecosystem services		Value
Energy conserved	1243.78 kWh	£49.75
Stormwater intercepted	9877.30 litres	£4.35
Air pollutants removed	0.84 kgs	£9.25
Carbon dioxide reduced	146.59 kgs	£7.76
Total CO <sub>2</sub> stored to date	1544.95 kgs	£81.74

**Size, future growth and life expectancy**

Here the author enters the realm of conjecture with photographs of structural damage which he admits may not be caused by the tree. The boundary wall is in poor condition, suffering from lack of maintenance. This was a fact DCH were made aware of by the Judge at the trial in 2013. The Court surveyor said the wall needs repairing and painting. The crack shown in Aspect's photograph is thirty feet from the Cypress. This is the section of wall directly beneath the tree:



DCH have another Cypress that failed. It was a different tree in a different set of circumstances. No doubt it came down during recent gales, unlike the tree in question which I maintain must be deeply rooted. The author claims "*it is feasible that [the root structure] has been contained within the confines of the planting bed*". It is not feasible. We are being asked to accept that a tree which is thirty-five feet tall could have withstood the gales of winter 2014 (80+mph) with little more than three feet of root depth. I am certain in my own mind that the roots are not "socketed" within the planting bed but have descended down at least to the water course that runs below it and probably very much deeper.

The shadow cast by the tree affects only me. It passes my front door between 4.00pm and 5.00pm. Directly to the north of the tree at the gable end of the other block are three disused garages and no

windows. The courtyard between the two blocks of flats is not affected and will not be affected in the future, it faces directly south and only when the sun has moved far to the west is any shadow cast across the courtyard, when the building themselves create the shade in any case. This is entirely spurious reasoning.



### **Presence of other trees**

The Horse Chestnut is shaded by the Cypress for a few hours first thing in the morning. The rest of the day it enjoys full sun and always flowers in abundance. The mature Walnut is too far away to be affected and there is another tree between it and the Cypress which could be felled. I have no idea what a "feature tree" is.

### **Expediency**

Again, DCH told me that this decision had come from Asset Management over concerns about the retaining wall. The wall needs repairing, not the tree felling. The decision to make a TPO is entirely expedient.

### **Conclusion**

From the point of view of the residents at Victoria Court the Horse Chestnut and the Walnut are not "superior trees". They are not evergreen, they are small and do nothing to screen us from the road or absorb pollution. If you would give me the benefit of the doubt in representing my neighbours I can say that most of us do not want the Cypress felled and four of us are extremely upset by the idea, contrary to the unsupported claims by DCH.

In recent months a huge number of mature trees have been felled in Totnes to make way for various developments. The Council will be aware of these. In my immediate area between ten and twenty trees were recently felled at the Grove School, a mature Sycamore taken down and the construction at the Shippon, behind Victoria Court, meant that a large mature Ash was felled along with other shrubs. That is a significant reduction in CO<sub>2</sub> and particulate removal for these streets which are also seeing a substantial increase in traffic flow.

Tony Dale

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FAO Mr Ross Kennerley  
Natural Environment and Recreation Manager  
Follaton House  
Plymouth Road  
Totnes  
Devon  
TQ9 5NE

Ref: 04421

21<sup>th</sup> May 2015

Dear Mr Kennerley,

**Re: The South Hams District Council (Parish of Totnes) (No:916) Tree Preservation Order 2015**

**Site: Tree on verge adjacent to Victoria Court, St Katherine's Way Totnes**

**Instruction:**

I have been instructed by Mr R Scholefield of DCH to make an objective assessment and object as appropriate to the above tree preservation order (hereafter referred to as 'the order'). The objection relates to the single tree that has been identified in the order as T1.

**Summary:**

I visited the site on the 7<sup>th</sup> May 2015 and undertook a visual inspection from ground level.

The subject tree is a young Leyland Cypress (*xCupressocyparis leylandii*) growing from a narrow planting bed to the south of Victoria Court.

The objections to the Order are summarised follows:

1. Although visibly prominent, removal of the T1 would not have a significant detrimental impact upon public amenity.
2. The retention of T1 over the short and medium term will suppress and disfigure the growth of two smaller trees (Horse Chestnut and Walnut) which will have significantly greater amenity value.
3. Climate change mitigation and the interception of pollution are not appropriate measures to determine the public amenity value of an isolated single tree.
4. The location is not appropriate for the long term retention of such a large species; risks to structures, shading, domination and whole tree failure will be ongoing concerns.
5. Other trees (Horse Chestnut and Walnut) provide greater potential for long term public amenity, without the associated damage or nuisance.



6. DCH are a reasonable, proactive landowner. The decision to remove the tree was a considered one that balanced issues of arboriculture and public amenity. The planned work is consistent with good arboricultural practice and confirmation of the order is therefore not expedient in the interests of public amenity.

Note: The above objections are a summary and the full detail that support these reasons is described in the following sections.

### 1) Description:

The tree is a young multi-stemmed Leyland Cypress (*x Cupressocyparis leylandii*). It stands 17 metres tall with a radial spread of 6 metres to the north, east and south and 4 metres to the west. It has a basal diameter of 920mm. The tree shows signs of normal vigour and there is no visible evidence of significant defect, disease or disorder.

The tree grows from an established bed of soft landscaping which measures approximately 2.2 metres by 32 metres between the highway (including a pavement) to the south and the vehicle parking area at Victoria Court to the north. The bed is retained to the north by a small rendered wall measuring approximately 1 metre high (varies slightly in height), capped with two courses of red brick.



*T1- Leyland Cypress*

Immediately to the west of the Cypress trees is a young but well established Horse Chestnut tree. This tree is in good health and vigour, standing approximately 10 metres tall with no visible signs of significant defect, disease or disorder. Its growth has become slightly suppressed on its eastern side by the Cypress. To the east of the Cypress stands a young Walnut (*Juglans* spp) standing approximately 4.5 metres high with no visible signs of significant defect, disease or disorder. The bed also contains two Cotoneaster and several seedling Ash trees.

The stem of the tree stands approximately 8 metres from the southern gable end of the closest block of flats (No's 6-10) and therefore the canopy is approximately 1.5-2 metres from the building.



## 2) Criteria for making a Tree Preservation Order:

The current Government guidance in the form of the online Guidance: **Tree Preservation Orders and Trees in Conservation Areas**, produced by Department for Communities and Local Government states that:

*Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.*

*Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.*

*The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*

*Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:*

*Size and form; Future potential as an amenity; Rarity, cultural or historic value; Contribution to, and relationship with, the landscape; and Contribution to the character or appearance of a conservation area; Other factors*

Revision date: 06 03 2014

Therefore, the Local Planning Authority (LPA) should demonstrate that the loss of the tree would have a significant negative impact on the local environment and its enjoyment by the public and that in the circumstances it is expedient to make the order.

## 3) Public Amenity

### Visibility

The position is a prominent one, where many passers-by (vehicular and pedestrian traffic) are likely to appreciate a trees contribution to the local landscape.

Being the largest tree one might perceive T1 to be the most valuable, but balanced alongside size, one should consider characteristics such as life expectancy, future growth, suitability to the setting, the presence of other trees and other less tangible measures of attractiveness such as architecture and seasonal variations.

To my mind the value of the T1 ought to be measured primarily against its visual amenity. Whilst the tree is prominent, it is rather bland in terms of its form, texture and colour, with no variation throughout the year. Its value is in my view modest.

In contrast, both the Horse Chestnut and the Walnut will develop into attractive features that are likely to be appreciated throughout the year and for many decades to come, without the associated problems of a very large species.

### Pollution and Climate Change Mitigation

I note the expressed interest from Parish Councillors about the potential of the tree to store carbon and intercept of particulate pollution. These are undoubtedly advantages of maintaining a healthy population of trees in towns, however, whilst the carbon storage capabilities of forests (including urban forests) is important, the impact of one individual tree over another is not significant. Away from particulate pollution 'hot spots'\* the interception benefits of a tree is unlikely to be significant.

\*Trees are particularly beneficial as interceptors of particulate pollution at 'hot spots' where the receptor is close to the source of emissions; frequently first floor windows immediately adjacent to a section of congested (often static but running vehicles) highway.

Without appropriate metrics or comparisons both benefits are difficult to substantiate and are liable to being overstated. It is not in my view an amenity that warrants a single tree being protection by a tree preservation order.

### Size, Future Growth and Life Expectancy

I estimate the age of the tree to be in the region of 25 years. I anticipate a life expectancy in excess of 100 years and mature dimensions exceeding 30 metres (100 feet) high and 10 metres radial spread. It is very likely that the tree will be removed long before its natural life span is complete.

### Suitability

T1 is not well suited to its position.



Regarding the nearby structures, there are visible signs of damage to the retaining wall, although without excavation these cannot be attributed to the expansion of the tree roots. Table A.1 of the British Standard (BS 5837 Trees in Relation to Design Demolition and Construction – Recommendations) recommends minimum distances between young trees and structures to avoid direct damage from future growth. For trees with an ultimate stem diameter exceeding 600mm, lightly loaded structures should be positioned a minimum of 1.5 metres from the centre of the tree. In this case the Cypress is located approximately 90 cm from the internal face of the wall. It is likely that the retaining wall will ultimately be displaced by the enlargement of stem and buttress roots through secondary thickening. The existing cracks to the wall, however caused, will have already reduced the structural support which it provides; further damage or collapse will exacerbate this problem and necessitate the removal of the tree.

Whilst it is not possible from visual inspection to determine the extent of the root system of T1 it is feasible that it has been constrained within the confines of the planting bed. This poses a risk of whole tree failure during strong winds. DCH has had recent experiences with a Cypress tree having failed, where the root systems had become 'socketed' within a planting station (see picture below).



The picture evidences the low shear stress between the edge of the root plate and the root barrier formed by the foundation of the boundary wall.

Whole tree failure risks causing damage to the property, parked cars, passing traffic, injury to passers-by and some significant inconvenience.

Damage from future growth can be avoided by pruning, however this will become increasingly onerous and costly as the tree grows towards its mature dimensions and further highlights the tree's poor suitability for this site.

At maturity the Cypress will dominate the southern aspect of the site and cast significant shade towards the building and the open space between the two blocks of flats. Increased shading will have an adverse impact on light levels within the flats. Residents may also consider a 30m high tree to pose an unacceptable risk.

A tree with such mature dimensions is appropriate to a park or large garden, but is not well suited to such a constrained position close to the centre of a town.

The retention of the tree to date might have been a reasonable short term measure to create an impact upon the local landscape. However, its presence now has distinct disadvantages that will worsen over time.

#### Presence of Other Trees

The young Horse Chestnut and Walnut are both fine specimens. In the absence of the Cypress tree both are likely to be viewed as important elements of the street scene, with ample space to develop as feature trees.



Horse Chestnut



Walnut

The Horse Chestnut is currently being suppressed on its eastern side by the Cypress. Horse Chestnut do not tolerate shade and if the Cypress is retained it will become so suppressed as to be spoilt as an amenity feature. The opportunity exists at present to remove the Cypress to enable the Horse Chestnut to re-develop a symmetrical form. The Walnut is not as yet affected, but will in due course become suppressed.

#### Attractiveness

Attractiveness is a subjective measure, however shape, colour, texture and seasonal variation are all relevant indicators that T1 does not compare favourably with. I am confident that most observers find the future amenity value of the Horse Chestnut and Walnut to be significantly greater than T1.

#### **4) Expediency**

It is the intension of DCH to fell the Leyland Cypress in favour of the adjacent Chestnut and Walnut. Removal would therefore benefit the amenities of both the local residents and the public.

The guidance: **Tree Preservation Orders and Trees in Conservation Areas** states that:

*Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural or silvicultural management.*

In this case the decision to fell the tree was taken as a measured one, consistent with good arboricultural practice and as such statutory protection is not expedient.

#### **5) Conclusions:**

1 My client recognises and supports the principle of planting and retaining trees in the interests of both public and private amenity. They manage a large holding of land which include many trees that are reasonably managed to balance risk, amenity, nuisance and cost. In this case the costs of removing the trees is warranted because of the immediate and long term disadvantages posed by retention.

2 The Cypress is not well suited to being retained in this position and will become an increasing inconvenience to the nearby residents. Risk of failure will increase as the size of the tree

increases as will the likelihood of damage the retaining wall. The overriding consideration is arboricultural good management, and whilst management decisions are frequently a balance of competing interests, it is very clear in this case that the benefits to the two superior specimens either side, take precedent over the modest amenity value of T1.

3 It is my firm view that the Cypress ought to be felled and that it would not be expedient in the interests of public amenity to confirm 'the order'.

Yours sincerely,

Simon Proctor  
Dip.Arb (RFS), M.Arbor.A, BSc (Hons) Dominic Scanlon  
*MICFor, FArborA, CEnv.*  
*Director – Aspect Tree Consultancy Ltd*

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## Appendix 4



### TOTNES TOWN COUNCIL

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Ross Kennerley  
Natural Environment and Recreation Manager  
Follaton House  
Plymouth Road  
Totnes  
TQ9 5NE

16<sup>th</sup> June 2015

Dear Ross,

#### **Tree Preservation Order No 916**

#### **Tree on verge adjacent to Victoria Court, St Katherine's Way, Totnes**

Totnes Town Council has noted the objection to the above named TPO and would like to express its strong disagreement with this. The Council would like the tree to be preserved for the following reasons:

The deciduous trees are benefiting from the protection of the coniferous tree and the wind will get to the Horse Chestnut without the protection of the conifer. It is also questionable as to whether or not the Walnut could be described as a "fine specimen."

As this the tree is on "orphan" land we do not see that it is the business of DCH to remove it. It is not possible that the tree can be damaging the wall as it is too far away (See photo). However, the tangle of weeds and brambles will move in if the Leylandii is removed and this may damage the wall instead.

The Leylandii is a beautiful tree and steadfast, an evergreen which provides shelter for wildlife and greenery for the winter. It is capable of absorbing up to 48lbs of carbon dioxide per year and can sequester 1 ton of CO<sub>2</sub> by the time it is 40. Given that the tree is alongside an area of heavy traffic, we consider this to be important.

The tree is undoubtedly tapping into the natural spring under the road and will therefore have no problem living a long and healthy life. It has a very solid base and trunk and is not going to fall down. (see photo) Apart from a snobbish dislike of Leylandii, we see no reason to remove it.

Our councillors have canvassed local residents and they are all in favour of the tree remaining.

We would be grateful for your consideration of this matter.

Yours sincerely

Helen Nathanson - Town Clerk

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