

PLANNING APPLICATION REPORT

Case Officer: Ian Lloyd

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

Application No: 3392/16/FUL

Agent/Applicant:

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

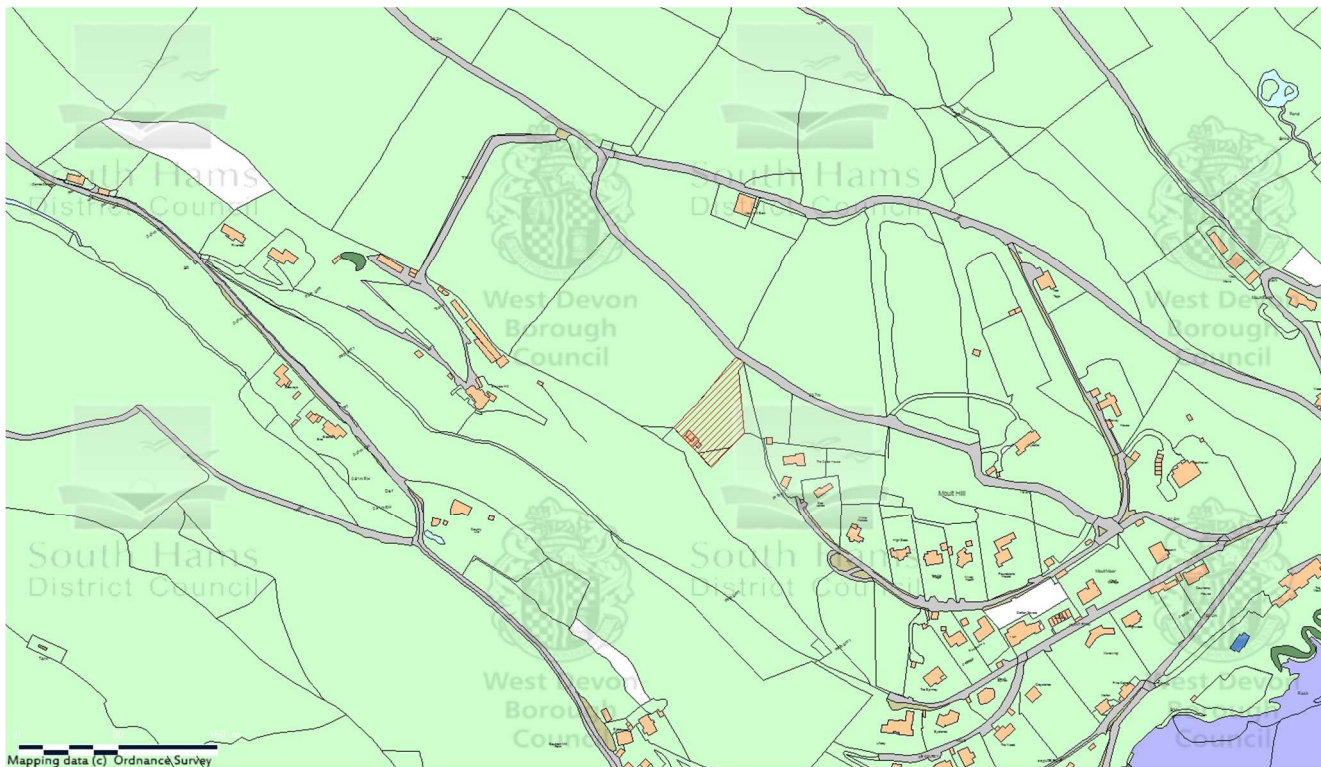
Applicant:

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

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

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



Recommendation: Grant conditional consent.

Conditions:

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

Key issues for consideration:

The key issues are considered to be:

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

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

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

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

Site Description:

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

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

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

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

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

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

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

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

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

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

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

Salcombe to Kingsbridge Estuary SSSI lies to the east.

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

The Proposal:

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

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

These issues are addressed in detail in the report below.

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

Consultations:

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

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

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

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

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

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

- SHDC Environmental Specialist:

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

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

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

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

Summary

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

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

Landscape Character and Visual Impact

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

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

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

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

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

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

Protected Landscape

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

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

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

Lan/P4 Tranquillity

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

Lan/P5 Skylines and visual intrusion

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

South Devon AONB Special Qualities

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

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

Detailed Design / Landscape Design

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

Recommendation

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

Reasons

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

Representations:

Representations from Residents

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

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

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

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

Relevant Planning History

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

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

ANALYSIS

Principle of Development/Sustainability:

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

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

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

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

Design/Landscape:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Highways/Access:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Neighbour Amenity:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Matters:

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

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

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

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

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

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

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

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

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

Planning Policy

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

The relevant development plan policies are set out below:

South Hams LDF Core Strategy

CS1 Location of Development
CS7 Design
CS9 Landscape and Historic Environment
CS10 Nature Conservation
CS11 Climate Change

Development Policies DPD

DP1 High Quality Design
DP2 Landscape Character
DP3 Residential Amenity
DP4 Sustainable Construction
DP5 Conservation and Wildlife
DP6 Historic Environment
DP7 Transport, Access & Parking
DP15 Development in the Countryside
DP16 Conversion and Reuse of Existing Buildings in the Countryside

South Hams Local Plan

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

Emerging Joint Local Plan

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

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

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

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

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

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

SPT4 Provision for employment floorspace

SPT9 Strategic principles for transport planning and strategy

SPT10 Balanced transport strategy for growth and healthy and sustainable communities

SPT11 Strategic approach to the natural environment

TTV1 Prioritising growth through a hierarchy of sustainable settlements

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

TTV30 Empowering local residents to create strong and sustainable communities

TTV31 Development in the Countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV15 Supporting the rural economy

DEV20 Place shaping and the quality of the built environment

DEV21 Conserving the historic environment

DEV24 Landscape character

DEV25 Undeveloped coast

DEV27 Nationally protected landscapes

DEV28 Protecting and enhancing biodiversity and geological conservation

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

DEV30 Trees, woodlands and hedgerows

DEV31 Specific provisions relating to transport

DEV37 Managing flood risk and Water Quality Impacts

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

NPPF

National Planning Practice Guidance

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

Summary/Conclusions/Planning Balance

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

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

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

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

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

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

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

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

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

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

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

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

Conditions In Full

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of highways safety.

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

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

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

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

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

Informatives:

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

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

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

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

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

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