

PLANNING APPLICATION REPORT

Case Officer: Gemma Bristow

Parish: Wembury **Ward:** Wembury and Brixton

Application No: 3078/17/FUL

Agent/Applicant:

Mr & Mrs Charles Stewart
1 Old Coastguard Cottage
Wembury
PL9 0EJ

Applicant:

Mr & Mrs Charles Stewart
1 Old Coastguard Cottage
Wembury
PL9 0EJ

Site Address: 1 Old Coastguard Cottages, Wembury, PL9 0EJ

Development: Construction of a new quay to improve access

Reason item is being put before Committee:

Cllr D Brown called this application to committee given the large scale local objection to this application from both Newton Ferrers and Noss Mayo, and Wembury Parish Council's, and the impact he perceives to have on the coastline, and the AONB, Cllr Brown would like this to be heard by the Development Management Committee.



Recommendation:

Delegate to CoP Lead Development Management, in conjunction with Chairman to conditionally grant planning permission, subject to a Section 106 legal agreement.

However, in the event that the Section 106 legal Agreement remains unsigned six months after this resolution, that the application is reviewed by the COP Lead Development Management, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the CoP to refuse to application in the absence of an agreed S106 Agreement.

The Section 106 should secure the following:

To restrict the use quay for boat launching/recovery and the storage of two access boats .

Conditions

1. Time limit
2. In accordance with plans
3. If no longer needed to be removed
4. CEMP compliance
5. No external lighting
6. Natural England best practice on construction on the foreshore
7. Quay to be constructed with at least 50mm wide gaps in the timber planks

Key issues for consideration:

Impact on AONB and Undeveloped coast, listed buildings and boathouse, SSSI, design and materials

Site Description:

No.1 Old Coastguard Cottage forms part of a terrace of four dwellings located on the south (Wembury) side of the River Yealm, almost opposite the Yealm Steps/pontoon on the Newton Ferrers side. It is noted that all the cottages are used as holiday lets. The Coastguard Cottages are only accessed by foot on the Wembury side down a coastal track or boat from the Newton Ferrers side. Below the cottages on the foreshore edge is a Grade II listed boathouse and steps leading down to the foreshore, both of which are not within the ownership of the applicant. The applicant owns the section of land between the steps and the boathouse but must maintain rights of access to the boathouse to the owner cottage nos. 2 – 4.

Within Area of Outstanding Natural Beauty, Undeveloped Coast and SSSI.

The Proposal:

Construction of a new timber quay to improve access, 7.7m long by 2.6m wide on 8.7m high timber/steep supports.

Amendments: the proposed davit has been removed, the quay shortened and reduced in height.

Consultations:

- Natural England: Based on the plans submitted and providing the methods within the revised application are strictly adhered to Natural England considers that the proposed development will not have significant adverse impacts on designated sites Plymouth Sound and Estuaries SAC, Yealm Estuary SSSI and protected landscape South Devon AONB and has no objection.
- South Devon AONB Estuaries Officer: As part of the proposed development is within the foreshore, the applicant is also certain to require a Marine License from the MMO for the same proposed development.

I suggest that the health of the estuary and nearby coast needs to be carefully considered, and all required mitigations detailed within a Construction Environmental Management Plan. I would expect this to contain detail of how all dust, silt and other potential pollutants will be effectively captured and prevented from entering the estuary, both during the construction phase as well as the new developments proposed uses. Excellent guidance is contained within the Environment Agency's Pollution Prevention Guidance 5 & 6 (appended). NB Whilst these documents are no longer supported by the EA, they still contain sound advice that I am confident that the applicant will find useful. The CEMP should also pre-empt any potential need for transportation by water or along the shore of construction materials.

Any external lighting of this proposed development needs to be carefully considered for its impacts on navigation (a Yealm Harbour Authority function) and on the estuarine waters below and suggest that it is strictly conditioned that no external lighting may spill out over the waters.

We would also draw your attention to the new emerging Newton & Noss Neighbourhood Plan and Policy N3P-4: Development and Construction of their submitted plan <http://www.n3p.co.uk/>

To fit/blend/reduce the aesthetic impact of the proposed quay and davit with the historic status of the existing buildings and seawalls, etc. of the site, we would suggest the consideration of the following; the overall expanse of the proposed quay might be reduced to the realistic size of the vessels that it is likely to be used for, reducing the height of the decking slightly and exploring the source of a black painted and period styled davit.

- Landscape officers: The proposed addition of development in this area is regrettable as the foreshore is under significant pressure for recreational uses, and currently contributes to the estuary character as a special quality of the AONB. However when viewed from both the opposite bank and the water, the proposed location lies between existing built features, and would not extend the visible area of development. In addition, the level horizontal platform means that the change in view would be limited. I note the intention to limit the number of boats stored in this area through a Unilateral Undertaking and this is welcomed as a means to lower the associated visual impacts of the proposals. Despite the principle concern about further foreshore development, the impacts of this particular proposal on both landscape character and visual amenity would be limited, and I would therefore not raise an objection on landscape grounds under Development Plan policies DP2 and CS9, and the emerging policies of the Joint Local Plan.
- Heritage officers: Officers provided advice at pre-application stage that confirmed a low level structure positioned between the boathouse and steps would not adversely impact on the setting of the listed buildings.
- Newton and Noss Parish Council: Objects due to visual impact of a modern structure affecting a listed building/heritage asset. Requests site is viewed from Yealm steps, Yealm Road.
- Wembury Parish Council: Objects due to adverse impact of the proposed development on these listed buildings, so the original reasons for objection remain ie Overdevelopment, which will dominate a listed building. Adverse visual impact on a listed building.

The revised plans do not change the adverse impact of the proposed development on these listed buildings, so the original reasons for objection remain ie Overdevelopment, which will dominate a listed building. Adverse visual impact on a listed building.

Representations:

20 letters of objection received on the following grounds:

- Concern that residents on Yealm Road were not notified
- Could only be used at high tide
- Boathouse damaged in storm but understood will be repaired
- Oversized development of this iconic site

- Existing steps, slipway and boathouse are in need of restoration and would be a better way to improve water access
- Decking over the original armoured wall is out of keeping and would harm the special setting and historical value
- The anchoring of the new quay to the armoured wall will shatter the stones and so damage the historical feature.
- Damage the natural beauty of the area
- The crane/derrick would be completely out of place
- Raised height of decking is unnecessary and out of place
- Applicant has not provided an assessment of when the quay could be used in relation to the tides
- The proposal would not give no.1 direct access to the foreshore, which could still only be via the existing steps owned by the adjoining neighbour.

1 letter of support on the following grounds:

- Development is minor and would look smarter than it looks now

Relevant Planning History

0038/15/PRH - Pre-app enquiry to 1. restore external door and 2. timber decking to existing quay. Officer support given.

ANALYSIS

Principle

It is acknowledged that the terrace of four Old Coastguard Cottages are in a very unique position given they are not accessible by car, but by boat from the Newton Ferrers side of the river. In addition, the boathouse and slipway that historically served all the cottages are now in the ownership of no.2-4 and so the owners of no.1 do not have a means to safely launch boats at this site. Nevertheless, this is a highly sensitive site within a very prominent position on the waters edge opposite Newton Ferrers, added to which the cottages and boathouse are Grade II listed.

In terms of the existing access arrangements the applicant has confirmed there is a ferry in operation from April to September which runs for three hours a day (10:00 – 12:00 & 15:00 – 16:00) which can drop occupiers off 200m away from the cottages, although can sometimes drop on the foreshore at the cottages themselves. The applicant has stated the nearest location to access by car is to park at Thorn House and walk 1.2/2km down a steep track and the applicant has rights of access by foot, wheel barrow or hand cart, but in practice this route is only used in an emergency or bad weather in winter.

At present the property is normally accessed by boat from the harbour pontoon over the beach at low water and alongside the existing stone quay or the neighbour's steps at high water. Heavy or bulky materials are usually loaded from Bridge End Quay. Unloading or alighting on the stone quay is difficult and hazardous as it is sloping, uneven and slippery but necessary to operate the outhaul mooring. It is noted that while the applicant states they have rights of access of the stone steps this is disputed by the neighbour.

The proposed quay would provide a safe level platform on which the occupants of no.1 Coastguard Cottages could launch and recover a small boat, or unload/load heavy goods for roughly an hour either side of high tide. While this is acknowledged to offer a small window for safer access, it would provide the only opportunity for the owners to safely bring in or out bulky goods from the property and recover their boat. It is also a given that access to this property by boat is constrained by the tide and conditions, however there is currently no opportunity for safe access at any point as the use of the outhaul mooring requires the occupiers to stand on the sloping stone quay. Outside of the window that the quay could be used either side of high water the occupiers would still need to climb down to the foreshore to board a boat, however the use of the outhaul mooring would be much improved given it would be operated when stood on the level platform.

The second purpose of the quay is to provide a platform to store the two boats that are used by the occupiers of no.1 through the winter months. At present it is not possible to lift the boats out of the water at the property due to the steep slope of the stone quay, added to which the applicant has to retain rights of access over the narrow strip of level land above the quay. The initially proposed davit has been removed from the plans and a smaller less visually intrusive roller proposed to aid with the recovery of boats from the water.

Visual appearance

This is a highly sensitive and prominent site within the AONB and undeveloped coast that is afforded the highest level of protection. In addition, the quay would be positioned adjacent to the Grade II listed boathouse and below the listed terrace of cottages. Nevertheless, the proposed structure would be low level and supported on timber posts that would fade into the surrounding landscape over time. The structure itself is not considered to harm the setting of the listed boathouse given its subservient nature or the setting of the listed cottages above. The visibility of the quay would be limited by being positioned between the boathouse and stone steps, and it would be read in the context of the existing stone quays located either side which are currently used to store boats.

There is concern that this could lead to a domestication of the quay from use as sitting out/sun deck/BBQs etc. While the applicant contends this point given the cottage is served by a large terrace, this is an area of concern. It is noted that a number of smaller boats/dinghies are currently stored on the land behind the existing stone quay which already detracts from the 'unspoilt' appearance of the foreshore but are fitting with their marine location. In this case it not possible to condition the quay for use for launching/recovery of boats only, as this is not an enforceable condition given the applicants have rights to use their land as they wish in relation to residential use. Nevertheless, the applicant has agreed to pay for a unilateral undertaking to be prepared that would ensure the quay could only be used for the launching/recovery of boats and storage of two access boats. Further to this a condition is recommended to ensure the quay planks have at least 50mm gaps which would render the surface uncomfortable for the use of standard tables and chairs. It is considered that in light of the low nature of the structure and legal agreement to restrict its use, it would not now have an adverse impact on the AONB or landscape setting.

It is noted that Newton and Noss Neighbourhood Plan is now made so has full weight, and includes policies N3P-2 on protecting the waterfront and N3P-9 on protecting the landscape. While the proposal is outside of the boundary of Newton and Noss it clearly has a strong link by the water access and the views of the proposal from the Newton side. Nevertheless, in line with the discussion above the proposal is considered to comply with these polices as it is not considered to harm the landscape character or marine environment.

Marine conservation

In terms of the impact on the estuary Natural England have reviewed the application, and in response to additional specifications of the works provided and a Construction Environmental Management Plan have confirmed the works would not have a significant adverse impact on Plymouth Sound and Estuaries SAC, Yealm Estuary SSSI and protected landscape South Devon AONB. It is recommended that further conditions are imposed to ensure:

- Vehicle movements on the foreshore are kept to a minimum and access/egress routes clearly defined.
- No storage of equipment on the foreshore.
- Contractors adhere to pollution prevention best practice guidelines including use of materials that are not toxic to the marine environment and measures to ensure no leakage of materials into the marine environment

The need to obtain a Marine Licence is outside the remit of this application, however it is noted that applicants state they own the land on which the quay would be constructed. This is separate matter that would need to be resolved once a decision has been reached on this application.

Conclusion

This is a highly prominent and protected site within the AONB, undeveloped coast and SSSI, however the structure proposed is low level and not considered to be visibly harmful to the landscape or listed buildings. While any development on the foreshore is going to be highly sensitive it is considered that in this case there is a strong need to provide improved access to No.1 Coastguard cottage given it does not benefit from the use of the boathouse slipway and disputed use of the steps. It is considered that given the minimal visibility of the timber quay proposed, the legal safeguards on its use and the access improvements the proposal should be supported.

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

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

Emerging Joint Local Plan

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

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

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

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

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

TTV31 Development in the Countryside
TTV32 Residential extensions and replacement dwellings in the countryside
DEV1 Protecting amenity and the environment
DEV2 Air, water, soil, noise and land
DEV3 Sport and recreation
DEV10 Delivering high quality housing
DEV22 Development affecting the historic environment
DEV24 Landscape character
DEV25 Undeveloped coast
DEV27 Nationally protected landscapes
DEV28 Protecting and enhancing biodiversity and geological conservation
DEV37 Managing flood risk and Water Quality Impacts
DEV38 Coastal Change Management Areas

Wembury Neighbourhood Plan

Newton and Noss Neighbourhood Plan

N3P-2 Protecting the Waterfront
N3P-9 Protecting the landscape

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

Conditions:

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

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

2. The development hereby approved shall in all respects accord strictly with drawing numbers below received by the Local Planning Authority on

P2269-DR-002 17/5/18
P2269-DR-005 1/2/18
P2269-DR-007 1/2/18
Site Location plan 25/9/17

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

3. If the quay is no longer needed for boat launching/recovery or boat storage then it shall be removed and the land reinstated to its former state.

Reason: To ensure only essential marine development is retained on the foreshore.

4. The proposed development shall be undertaken in strict compliance with the Construction Environment Management Plan received on 1st February 2018.

Reason: To protect the foreshore from impacts of construction

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

Reason: To protect the countryside from intrusive development

6. The proposed works shall be undertaken in compliance with the best practice guidance set out in Natural England's response dated 28 March 2018 ref: 421789:

- Vehicle movements on the foreshore are kept to a minimum and access/egress routes clearly defined.
- No storage of equipment on the foreshore
- Contractors adhere to pollution prevention best practice guidelines including use of materials that are not toxic to the marine environment and measures to ensure no leakage of materials into the marine environment Reason: To safeguard the intertidal and estuarine habitats

7. The timber boarding for the quay platform shall be laid with 50mm spaces between the planks, and this spacing shall be retained permanently unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of allowing light to the foreshore beneath and to ensure the quay is only used for its intended purpose.