

## PLANNING APPLICATION REPORT

**Case Officer:** Wendy Ormsby

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

**Application No:** 0087/18/FUL

**Agent/Applicant:**

Mr Paul Myers  
BBH Chartered Architects Ltd  
Creek House  
1 Island Street,  
Salcombe  
TQ8 8DP

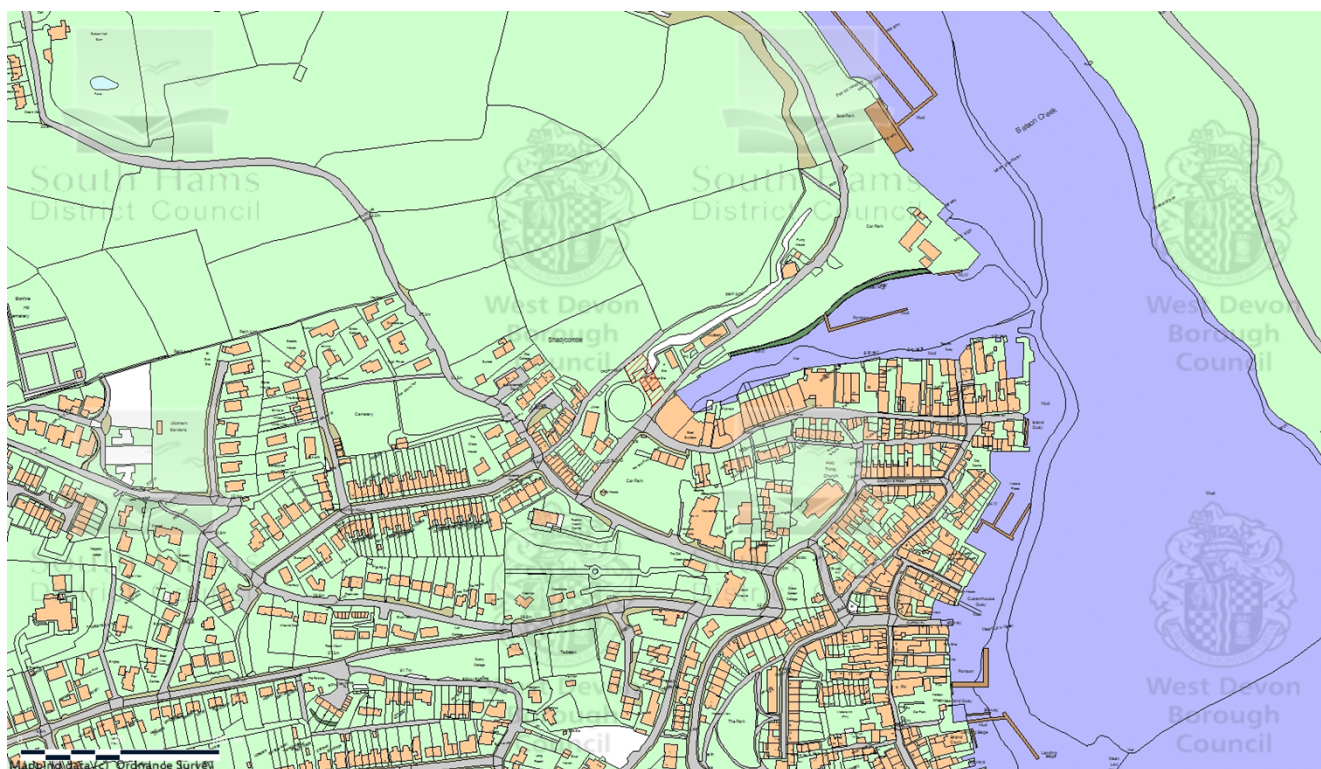
**Applicant:**

Yellow Bridge Developments LLP  
C/O Agent

**Site Address:** Site Of Former Workshop, Gould Road, Salcombe, TQ8 8DU

**Development:** Erection of building containing a ground floor marine maintenance unit (B1 use) with two dwellings above.

**Reason item is being put before Committee:** At the request of both Ward Members having regard to the inappropriate scale and design of the building and because the development does not provide for B2, general industrial marine use



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

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 terms of the Section 106 Obligation are:

- £5000.00 towards parking enhancements in the area

**Conditions** (full wording at back of report)

1. Std time
2. Accords with plans
3. Universal condition for contamination and Verification report
4. Unsuspected contamination
5. Flood evacuation plan to be agreed and implemented prior to first occupation
6. Development to take place strictly in accordance with FRA
7. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development
8. Hard and soft landscaping scheme, including boundary treatments to be agreed, implemented and maintained in accordance with agreed maintenance schedule
9. CEMP – to include construction phase measures to avoid, reduce and mitigate accidental spillages, storage of materials etc
10. Visibility splays to be provided and retained in accordance with approved drawings
11. Commercial vehicle loading area to be kept free from obstruction at all times, other than when in use for commercial loading
12. Details of the oil interceptor proposed in the drainage scheme to prevent pollutants from entering the estuary shall be submitted to and approved in writing by the Local Planning Authority
13. No chemicals shall be stored outside of any of the buildings hereby approved at any time
14. Stone panel to be approved
15. Material details and samples to be agreed
16. Parking and turning areas to be provided and retained
17. Removal of PD – c/use from B1 to C3
18. Details of measures to ensure internal noise levels of the development are adequate in accordance with BS8233:2014
19. Details of any external plant such as extraction/ventilation units

**Key issues for consideration:**

- Conformity with the development plan in terms of site allocation.
- Impact on the AONB
- Impact on the Batson Creek SSSI
- Highway Impacts
- Impact on the Conservation area
- Flood Risk

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

It is estimated that this development has the potential to attract New Homes Bonus of £ 2448 per annum, payable for a period of 4 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 site is located on the north west side of Gould Road, in close proximity to Island Street and the end of Batson Creek. To the immediate south west of the site is the on-going re-development of the former Gas Works where a large retail unit is being built with 6 x 2 storey dwellings above; to the north east the site adjoins the fire station, to the north is the end of Croft Road. Opposite the site to the south, on the corner of Gould Road and Island Street is a 1.5 storey building currently used as a shop and used by Yeowards Boat Yard.

The site is within the Conservation Area and the South Devon Area of Outstanding Natural Beauty. The southern part of the site is within Flood Zones 2 &3. Nearby Batson Creek is a Site of Special Scientific Interest.

The site is currently a vacant, brownfield site previously occupied by a dis-used, poor quality industrial building which has been demolished.

To the rear (north) of the site is a footpath and rising open countryside.

### **The Proposal:**

It is proposed to develop the full width of the site with a three storey mixed-use building. The ground floor (200 sq m) is proposed to be used for marine related B1 use and comprises a single large space with store room and staff room at the rear with a main access at the front. At either side of the building are stairs leading to the dwellings above. Forward of the building are two parking spaces (1 per dwelling) and a forecourt for commercial/delivery vehicles. The application indicates that the ground floor will be occupied by Fine and Classic Marine, an established business within the Salcombe area; the end user could of course change.

The 2 dwellings are substantial, deep properties including a large open plan living/kitchen area, and a further reception room on the first floor with 3 beds and a study (or 4 beds) and 3 bathrooms on the second floor. To the rear there are patios and a terraced garden and to the front each property has a balcony area. The rear gardens provide pedestrian access onto Croft Road which allows for safe access in times of flood.

The ground floor part of the building is proposed as mostly natural stone designed as a heavy, solid structure reflecting its commercial use, the roof projects over the main entrance at an angle. The dwellings above include gable features at second floor level with a solid zinc clad feature projections around the gables, the roof is low pitched and also zinc. The gables pick up the gable features in the adjoining Gas Works development and elsewhere in the Conservation Area, the zinc and heavy projections are designed to reflect the industrial/commercial character of the area; the aim being to create a transition between the residential area of the southern part of Gould Road and the more commercial uses to the north and east.

Render is proposed for the elevations in the upper two floors with an exposed galvanised steel band running around the building.

The scheme has been amended since submission to address concerns raised by the Highway Authority, the Environment Agency and to address design issues raised by officers.

The applicant has stated that the mixed use development is proposed as a viable way of bringing forward a high quality development on the site that provides marine commercial floorspace whilst making a positive contribution to the Conservation Area

### **Consultations:**

County Highways Authority: No objection subject to conditions and a financial payment of £5000.00 towards parking enhancements in the area

- Environmental Health Section: Contamination – no objection subject to conditions. Objection to residential use of site which may be incompatible with surrounding and future commercial uses in the area.
- Emergency Planner: Need conditions to secure flood evacuation plan prior to first occupation.

Environment Agency: We are able to withdraw our objection to the proposed development, subject to the inclusion of a condition in any planning permission granted to ensure the implementation of the approved Flood Risk Assessment (FRA) dated April 2018 as prepared by Nijhuis H20K Ltd to ensure the development meets the National Planning Policy Framework (NPPF) policy. Your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with current Government guidance within the (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

- SHDC Drainage: No objection
- SHDC Ecology: No objection subject to conditions
- SHDC Landscape: No objection subject to conditions
- AONB Unit: No objection; this application exhibits overall compliance with the South Devon AONB policies as outlined in our Management Plan and Planning Guidance documents and we have no objection or comments to make
- Natural England: No objection subject to conditions
- Town/Parish Council: Objection as this was a designated employment area and the introduction of residential dwellings above such employment units would not allow it to be possible to ventilate accordingly for such marine or associated usage. Also it could raise complaints of noise nuisance for residential occupiers when this employment area should be retained as marine related. The gradual 'drip' introduction of residential in this location also reduced the overall ability to meet its affordable allocation trigger point size which could provide a contribution to the community from this area. If this was approved there should be a condition that the designated employment area was retained as such and noted that in an area where affordable housing was needed this proposal would make no contribution to affordability.

### **Representations:**

2 letters of objection have been received raising issues which include the following:

- Contrary to RA4 employment area designation and JLP B1 designation
- Contrary to Neighbourhood Plan designation
- Residential use will limit potential employment use on ground floor
- Inappropriate large scale development adjacent a conservation area
- Adverse highway impact

## Relevant Planning History

41/1544/02/RM: ARM

Erection of building for office/light industrial use

Site at Gould Road Salcombe

Conditional approval: 02 Oct 02

Outline application for light industrial/office development

Site at Gould Road Salcombe

Conditional approval: 31 May 01

41/1876/13/F: FUL

Replacement industrial building

Banger Boat Yard Gould Road Salcombe TQ8 8DU

Conditional approval: 21 Oct 13

41/0412/12/F: FUL

Erection of building for office/light industrial use

Site at Gould Road Salcombe

Conditional approval: 10 Aug 12

## ANALYSIS

### Principle of Development/Sustainability:

Planning permission 41/1876/13/F granted consent for a modern utilitarian industrial building on this site, clad in green metal sheets with a grey fibre cement roof. This consent has been implemented through the demolition of the old building on site so remains extant.

The application site is within the settlement boundary of Salcombe and is a brownfield site, previously occupied by a poor quality industrial building (Bangar Boatyard) which has been demolished.

The site is with site allocation RA4 in the adopted Development Plan, allocate to provide 0.5ha of employment land and cycle and footpath provision including enhanced access to the town centre. This allocation does not promote residential development.

The emerging Plymouth and South West Devon Local Plan (JLP) includes the application site within site allocation TTV29 (20) which is an allocation for mixed housing and employment (B1) for 20 homes and 2000 sq m of employment floorspace. This policy is subject to a major modification in that the number of proposed dwellings has been reduced from 30 to 20 and the guidance on the form of development expanded as follows:

1. *Sensitive and high quality design which conserves and enhances the heritage assets.*

2. *Layout and design to be guided by landscape **and heritage** assessment, **with careful consideration of scale and appearance of development and any ground engineering operations, to minimise wider landscape impacts. [MM33]***

**(NEW POINT) No exacerbating of water quality issues within the Salcombe to Kingsbridge SSSI. [MM33]**

3. *Appropriate flood risk mitigation measures.*

The Draft Salcombe Neighbourhood Plan at Policy SALC EM1 allocates the application site as part of a wider area for mixed use employment and residential. The plans states that it *supports locally*

*affordable employment uses in areas of land to the North of Shadycombe Creek as allocated in the Plymouth and SW Devon Joint Local Plan. The proposed employment space under this policy shall be;*

*a) Development that optimises the use of the area for locally affordable employment and associated activities;*

*b) Of a standard of design and layout that will respect and complement the sensitive estuarine setting close to a conservation area;*

*c) That the existing number of car and boat parking spaces are retained unless or until satisfactory alternative provision is made elsewhere with access to the water;*

*d) That the uses are compatible with location within a flood risk area and that all mitigation measures required by the Environment Agency are accommodated;*

*e) A minimum of 2000m<sup>2</sup> of employment space is created as stated in JLP TTV 29.20;*

*f) Development limited to the boundaries shown in figure 16;*

*g) That generally conforms to General User Class B1. User class B2 shall be permitted providing it is restricted to marine uses only.*

*Mixed use of residential and employment will only be supported where employment User Class B1 is proposed.*

*Locally affordable employment is defined as a rent or purchase price that the local marine repair, construction and manufacturing sector is able to pay and agreed with SHDC.*

The principle of the proposed mixed use residential and ground floor industrial (B1) use of the site accords the emerging allocation in the JLP and emerging neighbourhood plan EM1 allocation but is not supported by the adopted RA4 allocation.

The Salcombe Neighbourhood Plan is at Reg 16 stage so has limited weight at present. The adopted development plan is out of date and the Council does not have a 5 year housing land supply that can be relied upon. Where there is no harm to the AONB the tilted balance in favour of sustainable housing development applies. The JLP has been considered at examination and modifications published. Policy TTV29 (20) carries moderate weight.

Also relevant is adopted Policy DP14, Protection of Employment Land which seeks to prevent loss of employment land and Policy DEV14 of the JLP which seeks to maintain a flexible supply of employment land and premises.

The previous building on the site provided 120 sq m of floorspace, planning permission ref 41/1876/13/F granted consent for 195 sq m of floorspace. The current proposal includes 200 sq m of commercial floorspace, as such there will be no loss of internal commercial floorspace. Externally some land will be used to provide 2 residential car parking spaces but the remainder will be used in association with the commercial use.

The principal of the proposed development is in accordance with emerging policies TTV29 (20) and DEV 14 and adopted policy DEV14; it is in accordance with Policy EM1 of the Salcombe Neighbourhood Plan. The proposal is not wholly in accordance with adopted allocation RA4 which does not support mixed use.

## Design/Heritage

The site is located within, but at the very edge of the Salcombe Conservation Area. This part of the Conservation Area is influenced by the commercial buildings in Island Street, historically and still currently associated with the marine industry. Stone is a dominant building material as are the plain, metal roofs and large timber doors opening directly into the narrow street. It is the uses as well as the buildings which form part of the unique character of this part of Salcombe. South of the Gas Works the residential uses become dominant and polite, domestic Victorian architecture is featured.

The Gas Works redevelopment includes stone at ground floor level and gables in a domestic form at the upper levels, this site adjoins residential uses to the south and west and this is reflected in the architecture.

The application site will adjoin the Gas Works site but otherwise is surrounded by commercial uses and the RA4/TTV29(20) allocation for further employment/mixed use development extends to the north east of the site. The architectural response proposed is a building that seeks to transition from the residential end of Gould Road to the more commercial side. It does this by include a heavy stone base, a low pitched zinc roof, heavy zinc feature surrounds to the gables at the upper levels that continue from the Gas Works site. An exposed stainless steel beam runs around the building adding articulation and adding a further commercial material into the building. The building is very deep but articulation in the front elevation and changes in materials help to break up the massing.

Officers consider the proposed building provides a high quality contemporary building which will enhance the Conservation Area and will provide an appropriate transition from the residential to a more commercial aspect of Gould Road. The residential use within the building helps to enable this high quality design approach. At ground level the commercial use, currently proposed for marine related industry will add to the vitality and character of this part of the Conservation Area.

The design and heritage impacts are considered to be acceptable.

## Landscape:

The site lies within the built up area of Salcombe, but close to Batson Creek and with open countryside to the rear. The South Devon AONB Unit consider the scheme to be in accordance with the AONB Management Plan and raise no objection.

The application has been considered by the Council's landscape specialist who has commented as follows:

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;
- Sections 12 and 15 of the NPPF in particular paragraphs; 127, and 170, 172 & 173;
- 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 172, due to its comparable built context and its limited wider impacts upon the AONB designation and its purposes.

Whilst the proposals represent large scale built development and arguably fail to conserve and enhance what is locally distinctive in this area as required by local plan policies, their context includes much development of a similar scale and appearance. Design precedents for this form of built form are readily apparent (existing, under construction, or consented) in this area, and whilst this has been

and will be detrimental to the overall character of this part of the settlement, the addition of this proposal would not noticeably worsen or change the existing appearance of the area.

On this basis I would not raise an objection on landscape grounds. Whilst existing harm does not justify perpetuating that harm, I don't believe that landscape policies provide a strong enough argument in this instance to form a robust reason for refusal.

The landscape impacts on the AONB are considered to be acceptable.

### **Neighbour Amenity:**

There are no occupied dwellings adjacent to the site. There will be some loss of light to east facing windows in the end unit of the dwellings under construction at the Gas Works site however these are not primary windows.

There will be no significant adverse impacts on the amenity of any other of the neighbouring land users.

Impacts on neighbours are acceptable

### **Highways/Access:**

The proposal includes one on-site parking space per dwelling and a loading/delivery area in front of the commercial unit. The site is within the town centre where occupiers are likely to go on foot to access services, but being 3/4 bed units car ownership may still exceed a single car. There are car parks in the vicinity for use by occupiers but at high season these are very busy. The Highway Authority has identified the potential to increase the number of authorised on street parking spaces in the immediate area and has requested funds (£5000) to implement this, this request is reasonable having regard to the likely demand for additional parking by residents and/or customers of the commercial unit.

The Highway Authority has commented in details as follows:

*The Highway Authority has had lengthy discussions with the agent over the design, to which it is now agreed a loading area will be included in the design. It was the preference of the applicant that two parking spaces are provided for the residential units. Noting the restricted parking in the area on the public highway the Highway Authority has no particular preference either way. It is therefore recommended visibility splays are created and maintained in perpetuity for the site. The applicant has demonstrated this is possible and shown the splays on the drawing titled Visibility Splays - Drawing Number JG01 Rev 2. This drawing needs to be submitted as a revised plan to the Planning Authority. As the splays cross third party land and will need to remain in perpetuity it is recommended Certificate B notices are served on the affected landowners.*

*As the proposals provide slightly substandard parking levels, the Highway Authority is requesting £5000.00 towards parking enhancements in the area either by way of S106 or Unilateral Undertaking to be paid prior to occupation of the residential units.*

Certificate B has been served on the adjoining landowners as advised.

### **Drainage and Flood Risk**

The southern part of the site is located within Flood Zones 2 & 3. The Environment Agency have required the finished floor level of the ground floor to be no lower than 4.2m AOD and the residential floor level no lower than 7.49m AOD. The applicant has demonstrated that this is achievable. A flood risk assessment also sets out flood resilience measures to be incorporated into the building.



Safe access from the residential properties is provided at the rear onto Croft Road. The Council's Emergency Planner raises no objection subject to a flood evacuation plan being agreed prior to occupation.

The National Planning Policy Framework, 2018 addresses flood risk stating the following:

*155. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.*

*158. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.*

*159. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.*

*160. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that:*

*a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*

*b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

*161. Both elements of the exception test should be satisfied for development to be allocated or permitted.*

*163. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment<sup>50</sup>. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

*a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*

*b) the development is appropriately flood resistant and resilient;*

*c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*

*d) any residual risk can be safely managed; and*

*e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

An assessment against these criteria is as follows:

*Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding*

The application site has been allocated for employment with the adopted development plan, this part of the proposal is therefore exempt from the sequential test. The residential use is a new use not considered in the adopted allocation. The residential use is proposed to ensure the viability and delivery of a high quality redevelopment of this brown field site appropriate for its Conservation Area setting. The residential could not be delivered elsewhere to the same effect.

*a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*

The development will provide a mixed use re-development of a brown field site that currently has a negative impact on the Conservation Area and which makes no contribution to the economy or housing supply. The development will provide benefits to the local economy, the Conservation Area and will boost housing supply in a sustainable location, these benefits outweigh the flood risk

*b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

The development will incorporate flood resilience measures into the building and will be built at a level which minimises flood risk. The ground floor commercial use is a 'less vulnerable' use and the 'more vulnerable' residential use is on the upper floor with safe pedestrian access onto Croft Road

It is concluded that the proposed development meets the sequential test and exceptions tests as set out in the NPPF.

An acceptable drainage solution has been agreed which takes into account the proximity of the sensitive SSSI at Batson Creek, this has been agreed with Natural England and the Council's drainage specialist.

Matters concerning flood risk and drainage are acceptable.

### **Compatibility of proposed residential use with surrounding uses**

The Council's Environmental Health Specialist has objected on the grounds that the proposed residential element of this scheme could conflict with nearby commercial uses, thereby being contrary to para 182 of the NPPF which reads as follows:

*Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.*

The EH Specialist has commented as follows:

*Having reviewed the planning application the Environmental Health department is raising concerns about the suitability of the location for residential usage. The area of Island Street and Gould Road is identified as being important for the marine industry.*

*Environmental Health have concerns about the compatibility of placing residential uses adjacent to such uses, as boat maintenance and building is heavily reliant upon power tools which are likely to cause disruption to residents.*

*After further consideration, I do not believe a noise impact assessment is necessary as even if the measured levels are acceptable at this time, it does not take into account future uses of the surrounding land uses which may be permitted.*

*Appeal decision ref APP/Q1153/W/17/3175414, deals with this very situation and is based upon the previous NPPF and Para. 123, this section has been reinforced by s.182 of the new NPPF.*

*If the permission was granted and problems did arise the Council is under a Statutory duty to investigate those complaints and serve notice where it is satisfied a nuisance exists. This could require costly improvement works to those lawfully existing businesses, or a requirement to restrict their hours of operation which in the marine industry which is so reliant upon the tides could lead to the business closing.*

*If the planning authority is minded to approve this application, contrary to Environmental Health's objection. Then conditions should be attached to any permission to ensure that the internal noise levels of the development are adequate in accordance with BS8233:2014. However this only takes into account noise at the time of the assessment and does not take into account any growth of existing businesses or any lawful changes of use which may generate additional noise, odour or fumes. Hence my objection to the proposals.*

*A noise impact assessment has been submitted to support this application and the summary of the report is set out below, the full document can be viewed on the Council's website:*

*1.01 This site lies on the northern side of Gould Road which lies in an area zoned by South Hams District Council for mixed use development and the proposal is for this with B1 use on the ground floor and two houses over.*

*1.02 Despite this, South Hams District Council's Environmental Health Office has raised objection to the mixed use development of this site on Gould Road, sandwiched between the recent mixed use development of the former gas works and the fire station.*

*1.03 The stated reasoning for Environmental Health Officer objection being the introduction of new residential neighbours could cause the closure of existing unavoidably noisy marine industries, whose operations are governed by the tides, leading to night working.*

*1.04 What were in the past boat builder's sheds with slip ways off the creek along Island Street have now become shops, cafes or places to store and maintain small leisure craft uses which are neither endemically noisy or likely to be operational at night.*

*1.05 Salcombe Fish Quay is the only genuine marine industry in the vicinity and this is more than 250m from this proposed development site, there are existing residential neighbours on Thorning Street only 50m from the fish quay to the south across the creek. This development would not impose any closer residential neighbours on the fish quay.*

*1.06 A week long sound survey has been carried out on the proposed mixed use development site and this has shown there is no evidence of industrial noise that could lead to residential complaint and subsequent enforcement action on the commercial neighbours.*

*1.07 What the survey has demonstrated is that BS8233:2014 internal sound criteria are achievable for the two proposed residential dwellings. These levels being achievable with the windows open for all but the front two bedrooms on the 2nd floor.*

*1.08 Fitting a whole house ventilation system (MVHR) along with high insulating windows will provide a robust form of future proofing to protect the residents from any potential changes in nature and working of the commercial premises around the site.*

Officers have considered the concerns of the EH officer and reviewed the referenced appeal decision. Whilst the EH officer raises relevant points for consideration with the regard to future development in the area it is also important to consider that the noise impact assessment indicates an acceptable environment currently exists and also to consider that the site and land beyond is allocated in the JLP for mixed use residential and B1 development.

B1 development is office, research and/or light industrial use. Light industry is an industrial use capable of taking place in a residential area without adversely impacting on residential amenity. As the TTV29(20) site allocation is for residential and B1 employment, future development of the allocated area is unlikely to bring about noisy or smelly uses. The allocation also accepts the principle of residential development on the site. There is nothing about the application site which would make it less suitable for residential development than any other part of the site allocation.

Notwithstanding the concerns of the EH officer, having regard to the fact that the Council have allocated the site for mixed use development of residential and employment (B1) use would indicate that the site is considered appropriate for these uses.

### **Planning Balance**

The proposed development of this brown field site will provide a greater amount of internal commercial floor than previously existed and will bring about the re-development of a vacant site to the benefit of the local economy and in accordance with development plan land allocations for employment use.

The residential element of the scheme will provide 2 additional dwellings in a sustainable location at a time when the Council does not have a 5 YHLS it can rely on, this weighs in favour of the application. It is acknowledged that the dwellings will be expensive and available to a limited range of buyers, but nevertheless they are additional dwellings.

The scheme will bring about an enhancement to this part of the Conservation Area by providing a high quality new building that includes marine related commercial use at ground level adding to vitality and in keeping with the character of the area.

The site has been allocated in the emerging JLP for mixed use residential and employment (B1) use and the proposal meets the criteria set out in Policy TTV29(20)

The proposal represents sustainable development and it is recommended that planning permission be granted.

***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  
DP14 Protection of Employment Land

**Emerging Joint Local Plan**

**Status of emerging JLP policies for decision makers**

The Plymouth & South West Devon Joint Local Plan is currently undergoing a main modifications consultation (22 Oct – 03 Dec 2018) as part of the examination in public to determine the soundness of the plan. The National Planning Policy Framework provides guidance on the weight that can be given to policies in emerging local plans in paragraph 48:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The JLP is nearing the conclusion of the examination process, and can be considered to be at an advanced stage of preparation.

Whilst technically all objections are unresolved until the Inspectors' issue their Final Report, some policies which did not receive objections at the Reg 19 stage could be given very significant weight. The nature and scope of objections made regarding each policy have been taken into account when determining the weight to be apportioned to each emerging policy.

The Council consider that the emerging policies are all compliant with the NPPF. It should be noted that the JLP is being examined against the provisions of the 2012 NPPF, and therefore for the purposes of paragraph 48 of the NPPF policies should also be assessed for their conformity against the 2012 NPPF.

In considering the merits of this proposal, case officer recommendations are informed by the weight that can be attributed to emerging JLP policies and adopted development plan policies, as well as the degree of conformity with the new NPPF.

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN as modified 2018**

SPT1 Delivering sustainable development

- SPT3 Provision for new homes
- SPT4 Provision for employment floorspace
- TTV1 Prioritising growth through a hierarchy of sustainable settlements
- TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
- TTV29 Site allocations in the Smaller Towns and Key Villages
- DEV1 Protecting amenity and the environment
- DEV2 Air, water, soil, noise and land
- DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
- DEV9 Accessible housing
- DEV10 Delivering high quality housing
- DEV14 Maintaining a flexible mix of employment sites
- DEV16 Providing retail and town centre uses in appropriate locations
- DEV18 Protecting local shops and services
- DEV19 Provisions for local employment and skills
- DEV20 Place shaping and the quality of the built environment
- DEV21 Conserving the historic environment
- DEV22 Development affecting the historic environment
- DEV24 Landscape character
- DEV27 Nationally protected landscapes
- DEV28 Protecting and enhancing biodiversity and geological conservation
- DEV31 Specific provisions relating to transport
- DEV32 Meeting the community infrastructure needs of new homes
- DEV33 Waste management
- DEV34 Delivering low carbon development
- DEV37 Managing flood risk and Water Quality Impacts

**Neighbourhood Plan**

Draft Salcombe Neighbourhood Plan - Reg 16 Stage

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

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

**Proposed Conditions in full**

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

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

2. The development hereby approved shall in all respects accord strictly with drawing number(s) .....received by the Local Planning Authority on .....

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. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified: i. All previous uses ii. Potential contaminants associated with those uses iii. A conceptual model of the site indicating sources, pathways and receptors iv. Potentially unacceptable risks arising from contamination at the site

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect controlled waters.

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

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

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

5. No development approved by this permission shall be brought into use until a flood warning and evacuation procedure has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To minimise risks to users of the building during times of flood.

6. The development shall be carried out in accordance to the approved Flood Risk Assessment (FRA) dated April 2018 as prepared by Nijhuis H20K Ltd and submitted drawings (in particular drawing 3537-13-O 'First Floor Plan' and 3537-12-P 'Ground Floor Plan' including the following provisions:

- The finished ground floor commercial level shall be set no lower than 4.2mAOD.
- The flood resilience measures detailed in the submitted FRA in the section titled 'Mitigation Measures' shall be incorporated into the building.
- The finished first floor residential level shall be set no lower than 7.49mAOD
- Safe access to and from the residences must be provided via the high ground and Croft Road to the rear/north of the development.

Reason - The revised FRA demonstrates that the proposed finished ground floor level has been raised to match the design still water level including 75 years' climate change, and has justified not making allowance for uncertainty and waves in terms of the practical use of the proposed building. In

this instance, and given the slightly more sheltered location of the proposed development, we consider that the proposed finished ground floor level of 4.2mAOD could be acceptable, provided that suitable flood resilience measures are included in the design of the building, in particular ensuring that all electrical circuits and points are raised, and that flood resilient materials are used in the construction. It is noted that the level of the first floor residences given in the FRA is 7.85mAOD, which is higher than the level of 7.49mAOD shown in the latest drawings, however, both these levels are above the design flood level.

7. The means for managing foul and surface water hereby approved shall be installed in strict accordance with the approved details prior to the occupation of any part of the building and shall be maintained and retained in accordance with the agreed details for the lifetime of the development.

Reason: To manage flood risk and in the interests of amenity and biodiversity

8. Prior to the first planting season following commencement of the development hard and soft landscaping details which shall include detailed landscape designs and specifications for the site shall be submitted to and approved in writing by the Local Planning Authority. The landscape designs and specifications shall include the following:

(a) Full details of planting plans and written specifications, including cultivation proposals for maintenance and management associated with plant and grass establishment, details of the mix, size, distribution, density and levels of all trees/hedges/shrubs to be planted and the proposed time of planting. The planting plan shall use botanic names to avoid misinterpretation. The plans should include a full schedule of plants;

(b) Details of hard landscape materials including samples if requested by the local planning authority;

(c) A timetable for the implementation of all hard and soft landscape treatment

(d) Details of boundary treatments

All hardsurfacing, planting, seeding or turfing comprised in the approved details of landscaping, shall be carried out in accordance with the approved timetable for implementation. Any trees or plants which, within a period of 5 years from the completion of any phase of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the local planning authority gives written consent to any variation.

Reason: In the interests of visual and residential amenity

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

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;



(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

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

(i) the means of enclosure of the site during construction works; and (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site (k) details of wheel washing facilities and obligations

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

(m) Details of the amount and location of construction worker parking. (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

(o) Details of noise impacts associated with the construction and controls

(p) Dust impact assessment and proposed control in accordance with the Institute of Air Quality Management guidance for dust assessment from construction sites

(q) details of measures to avoid, reduce and mitigate accidental spillages/contamination of surface and ground water.

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

Reason: In interests of the safety and convenience of users of the highway, the in interests of residential amenity and in the interests of biodiversity.

This needs to be a pre-commencement condition as the agreed details need to be implemented immediately upon commencement of development or prior to the commencement of development.

10. Visibility splays shall be provided, laid out and maintained in perpetuity for that purpose at the site access in accordance with Drawing Number JG01 Rev2 prior to the commencement of any other development of the site.

REASON: To provide adequate visibility from and of emerging vehicles in the interests of highway safety.

11. The commercial loading area identified on drawing JG01 Rev 2 shall remain free from obstruction at all times except when in use for commercial loading.

REASON: To ensure the provision of adequate facilities within the site for the commercial traffic generated by the development in the interests of the safety and convenience of users of the highway

12. Prior to development continuing above slab level, details of the oil interceptor proposed in the approved drainage scheme to prevent pollutants from entering the estuary shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details and shall be retained and maintained for the life time of the development.

Reason: In the interests of biodiversity

13. No chemicals shall be stored outside of any of the buildings hereby approved at any time.

Reason: To minimise the risk of pollution in the interests of biodiversity

14. No part of the building shall be occupied until the land for vehicle parking and turning shown on the approved drawings has been provided in accordance with the approved plans and those areas shall not thereafter be used for any purpose other than the parking or turning of vehicles used by persons working at or living or visiting the site.

Reason: In the interests of the safety and convenience of users of the highway

15. Prior to development of any building above slab level details of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To enable the Local Planning Authority to consider the details of the materials in the interest of the character and amenity of the area.

16. Prior to their construction a sample panel of the stone to be used in the external elevations shall be prepared on site for inspection and approval by the Local Planning Authority. This shall demonstrate the stonework and mortar type. The panel shall be a minimum of 2 sq m in size.

Not less than two weeks notice shall be given to the Local Planning Authority when the sample panel is ready for inspection. All external work shall be constructed to match the approved panel.

Reason: In the interests of amenity.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England)Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), the ground floor of the building hereby permitted shall only be used for purposes within Class B1 of the Use Classes Order 1987 as amended unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the employment use of the site and in the interests of amenity.

18. Prior to the continuation of development above slab level details of measures to ensure internal noise levels of the development are adequate in accordance with BS8233:2014 shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

Reasons: To ensure a satisfactory living environment for future occupants of the development and to minimise the risk of complaint about noise arising from existing and future commercial uses in the area.

19. Prior to installation, details of any externally mounted plant such as extraction or ventilation units shall have previously been submitted to and approved in writing by the Local Planning Authority. Details shall include information about appearance, noise and odour.

Development shall take place in accordance with the approved details.

Reason: In the interests of visual and residential amenity.

