

PLANNING APPLICATION REPORT

Case Officer: Gemma Bristow

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

Application No: 2483/18/FUL & 2484/18/LBC

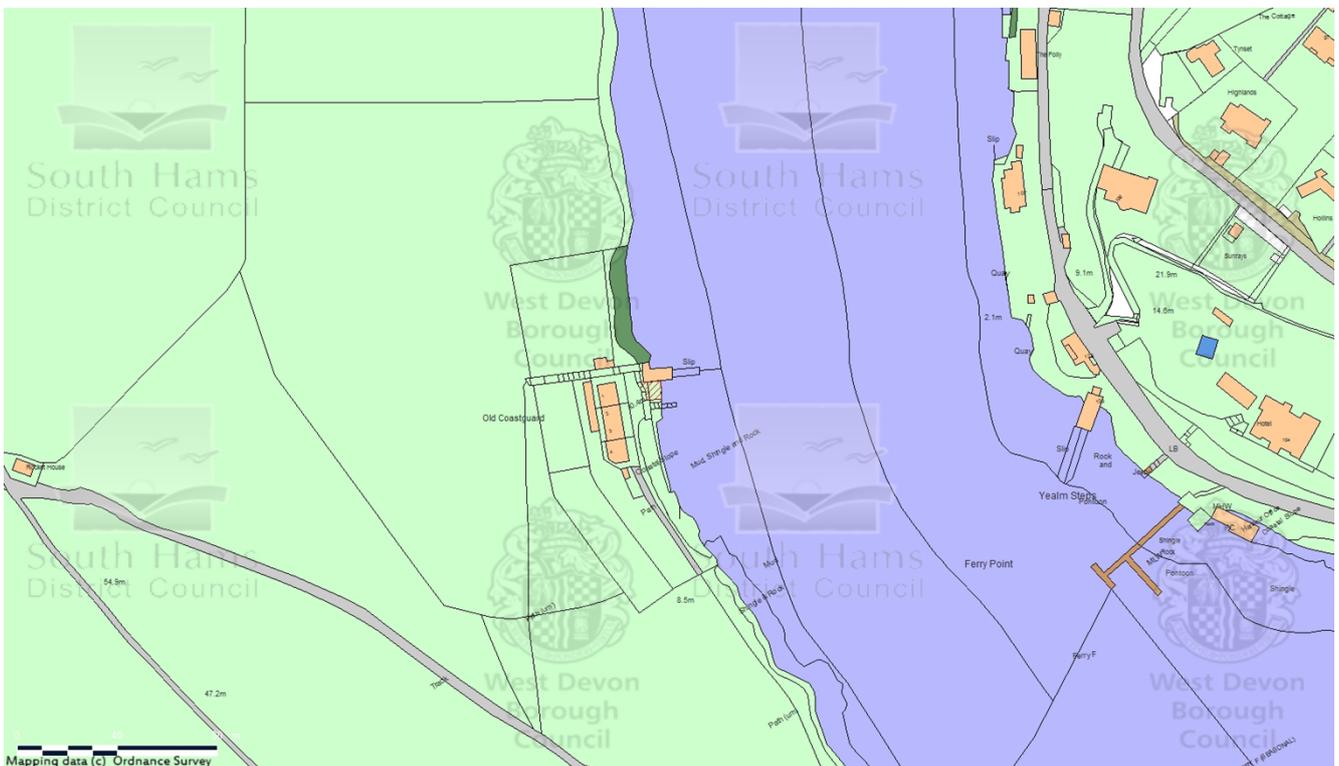
Agent/Applicant:

C Stewart
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Knoll Road
Godalming
GU7 2EP

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

Development: Construction of a new quay to improve access (resubmission of 3078/17/FUL)

Reason item is being put before Committee: Cllr D Brown called this application to committee having regard to the potential impact on the coastline and the AONB



Recommendation: Delegate to Head Of Practice 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 HoP Lead Development Management, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the HoP to refuse to application in the absence of an agreed S106 Agreement.

The Section 106 should secure the following:

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

Conditions

1. Time limit
2. In accordance with plans
3. If no longer needed to be removed
4. CEMP
5. No external lighting
6. Natural England best practice on construction on the foreshore
7. Details and sample of quay materials
8. In accordance with ecology report

Key issues for consideration:

Principle, 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/second homes. The Coastguard Cottages are only accessed by foot on the Wembury side down a coastal track of approx. 1.5 miles or by boat from the Newton Ferrers side.

Cottages no. 1, 2 and 3 are also grade II listed, although it is noted that No.4 is not. 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.

The site is within the South Devon Area of Outstanding Natural Beauty, Undeveloped Coast and SSSI.

The Proposal:

Construction of a new timber quay to improve access for the residents of 1 Old Coastguard for people, luggage, goods and materials and storage of the craft necessary to enable this. The structure will be 7.8m long by 2.6m wide set on seven x 0.9m high timber posts attached to the revetment slope.

Materials: GRP fibregrid floor, timber nosing, steel shoe and steel rods into stone quay, timber material of posts

In support of the application the applicant commissioned a Marine Safety Review Report by Nash Maritime. This report concluded:

- *The outhaul system as currently rigged is difficult to use and results in needing to standing on the revetment to reach the dinghy/strop.*

- *The revetment is a sloped uneven surface with marine algal growth and/or seaweed and is not easy to stand or walk on.*
- *The outhaul should be re-rigged to be easier to operate and moved closer to the steps to reduce needing to stand on the revetment.*
- *The proposed quay would provide a safe and secure area to operate the outhaul, allow a dinghy to be manoeuvred without standing on the revetment, provide a barrier to stop a dinghy riding over the revetment causing potential damage to the boat and provide a point to entry/egress to the dinghy.*

- *In relation to the recovery and storage of a dinghy the report found it is often necessary to walk on the revetment to guide the dinghy into position, the dinghy rides over the revetment, but a fender arrangement reduces likelihood of damage, it is difficult task and needs at least two strong persons.*
- *The proposed quay would eliminate the need to walk over the revetment, and at the right tide height the dinghy could be hauled/rolled onto the quay.*
- *Storing the dinghy on the quay would enable the task to be undertaken by one individual*

- *The results of the risk analysis indicate that all the risk scores associated with the existing operations fall in the ALARP (As Low as Reasonably Practicable) or less region of risk The scores are primarily driven by the fact that there have been no serious reported injuries nor any major damage to dinghies or infrastructure.*
- *The two operations found to have the greatest risk, scored at 5, were associated with the existing operation were existing recovery/launching and storage of boats and existing outhaul operation*
- *By implementing the improvements to the outhaul system (re-rigging and re-positioning) the likelihood risks are reduced to medium/low albeit remaining within ALARP. By additionally implementing the proposed platform the existing operations shows that implementing these measures can reduce the risk to low.*

Further information was provided that stated:

- *The window either side of high water which has been revised to be just under 2hrs, which is when the platform would be usable, is based on a mean high water spring tide (MHWS) and mean high water neap tide (MHWN).*
- *Figure 3 of the report shows a diagrammatic cross section with the levels of key features and structures shown together with MHWS (+5.4m CD) and MHWN (+4.3m CD). Please note that MLWS (+0.7m CD) and MLWN (+2.1m CD) aren't shown on the drawing at this scale as they intersect the foreshore some distance away from the property due to the shallow slope.*

- *With regards to usage of the platform in spring tides and neap tides: The proposed platform level is at +5.9m CD which means it will not be submerged on a high spring tide (MHWS is +5.4m CD therefore circa 0.4m clearance) and so there is a window for the platform to be used during spring and neap tides.*

Consultations:

- **Natural England:** No objection subject to condition to address construction impacts on intertidal interest features and reduce pollution in the marine environment, 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 Specialist:
This proposal has been the subject of lengthy debate and discussion with the applicant and other interested parties. The Coastguard Cottages are listed as a single item as is the boathouse, both at grade II. The quay has been considered for listing by Historic England but was assessed not to be of sufficient historic interest to merit individual designation. We have, however, treated it as curtilage listed to the Cottages which (as I understand it) at the time of listing were in a single ownership with the quay being shared. This judgement is based on the latest Historic England guidance.

In accordance with our policies, the 1990 Act and the NPPF I base my assessment of this proposal on two main considerations. Firstly the impact of the proposal on the character and significance of the quay itself as a heritage asset and secondly the effect on the significance, special interest and setting of the designated heritage assets, (the cottages and the boathouse).

1 Impact on the quay as a curtilage listed heritage asset

The revised design has reduced the apparent bulk and the height of the structure. It will be attached to the rubble stone quay which will involve some small amount of intervention and, therefore, harm to the historic fabric. The profile of the stone quay structure will remain intact so there will be no permanent change to the historic fabric and the new structure could be fully removed in future should it prove to be no longer needed.

The appearance of the historic quay will be altered, there is no doubt in that. It will, however, remain entirely legible what has happened even on a most casual inspection.

2 Effect on the Coastguard Cottages and Boathouse

The special interest of the Coastguard Cottages and their associated boathouse lies in their being designed and located in a position to facilitate observation (from lookouts on Warren Point) of water activity with direct access to it to facilitate management and assistance when needed. This highly particular focus on marine activity is integral to the significance of the group and is emphasised by the very relevant reality that the properties can only be accessed by water.

The proposed quay is intended solely to enhance the accessibility of the property. The design is clearly indicative of that purpose so it can be seen as an evolution of the fundamental relationship of people using the property with water craft. It is reasonable to conclude that the introduction of an improved quay structure does not of itself cause harm to the significance or special interest of the designated heritage assets so long as it is clearly designed to perform that function and nothing more.

Assessment of setting relates almost entirely to the views from the east, either from the water or sites on the other side. The impact on views from the Cottages will be minimal – a landing stage in the foreground of the wider views with tenders stored upon it. Step 3 of the assessment process set out by Historic England in the guidance note 'The Setting of Heritage Assets' states, 'Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it'. The site is in a beautiful location that is viewed, enjoyed and appreciated by many 1000's of people each year. The proposal will change those views, as have the other constructions in the locality including the very utilitarian concrete covering / re-building of the old jetty and two other landing points / waterside structures constructed to the north and south of the site. Applying the HE guidance I conclude that the proposed structure will result in some harm to setting, but this harm is relatively slight due to the proposed structure being visually quite lightweight, serving a clear purpose and being (at least notionally) reversible in future. The level of harm has been reduced through negotiated design changes in accordance with Step 4 of the HE guidance on setting.

The use of waterside buildings and quays changes over time and this progressive evolution is visible in Newton and Noss as elsewhere. This nearly always results in a degree of harm but seldom to the point that a locality appreciated for its beauty is considered to have lost that charm.

The most relevant para's of the NPPF are:-

NPPF 194: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.....

NPPF 196: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

This leads to the question 'what is the Optimum Viable Use for the Cottages?' The fact that all are used as holiday letting accommodation suggests that few people have the desire to live in such a location with no vehicular access as their principal dwelling. That being the case the Cottages rely on occupation by visitors / guests and holidaymakers in order to justify their ongoing maintenance and repair.

If holiday use is accepted to be the 'Optimum Viable Use' for the Cottages, what benefits does the proposal offer? It appears to offer safer access to the site for people with limited skills in the handling of watercraft or who rely on a water taxi to get there. It also appears to offer accessibility to a greater proportion of the population who may have restricted mobility. The proposal will only present these benefits to one cottage so that further complicates the judgement needed in the planning balance. I note, however, that alternative ways to provide enhanced accessibility for that cottage require the use of land or structures not within the control of the applicant.

Heritage response conclusions

- The proposal will result in some harm to the setting of the heritage assets, but not to their special interest.
 - The harm to the significance of the designated heritage assets is certainly 'less than substantial' and relates almost entirely to impact on setting.
 - The level of harm can be considered justified if it secures public benefit, which includes supporting the optimum viable use of the property and delivering enhanced accessibility for a greater proportion of the population.
- MMO Office: Maine Licence required as the scope of works looks like it will occur below MHWSprings which is the marine licensing area we are responsible for. However Mr Stewart's planning application does not need to be held up for any reason and should proceed as normal.
 - Wembury Parish Council: no objection
 - Newton and Noss Parish Council: Objection
Adverse impact on waterfront, listed buildings and heritage site, would create deck rather than a quay.
 - Wembury Local History Society: Objection
Thanks to their Listed status, the cottages' external appearance has been excellently preserved. The height of the quay would render it unusable for most small boats. The applicant has full rights to use the existing steps/jetty. The quay may be used for domestic curtilage. Concern about damage to the armoured quay from new loadings of the quay.
 - River Yealm and District Association (RYDA): Objection
The proposed "quay" and deck would obscure the existing quay and wall having a negative impact on the listed building. The material of the proposed deck, GRP Fibre Grid, is particularly detrimental and will be visible from the cottages and higher elevations across the river. A much more sympathetic design would be possible using local natural materials
 - Gary Streeter MP: General comments
Writing on behalf of a number of objectors, concerns inaccuracies on the application as the applicant does not have rights of access over the jetty/steps, and that changes to how the outhaul is rigged would resolve the issue of its use.
 - Yealm Harbour Authority: General comments
Two of our Committee did recently pay a visit to the site and have asked that I include the following comment: "We refer to the planning application. We have been asked to comment on the existing outhaul. In our view this could be made more safe with simple modifications."
The Committee would wish to say that there is 'no comment' on the staging proposed and would not wish to comment on the current infrastructure.
There are many boats left afloat during the winter months, many of which apart from bailing (emptying of water) are left unused for long periods.

Representations:

18 letters of objection received on the following grounds:

- Unspoilt surrounding of listed attributes character and enjoyment of the area
- Out of keeping development, eye sore
- Too high above high tide mark
- Cottage currently has ample access
- Changing the outhaul and position on foreshore will make necessary access improvements
- Would change an iconic view
- Platform could only be used at high spring tide
- Platform would be used for sunbathing
- Within West Devon AONB

- No mention of the use of the quay in relation to tidal movement
- No details of structural integrity of the proposal
- Within curtilage of Grade II listed buildings
- Marine engineering works should be treated as Grade II listed
- The proposal would not enhance the local area
- During a storm and a high tide the structure will put significant additional loads on the historic quay
- If permission is granted, a condition should insist on watertight joints to protect the engineering works
- The change in material of the proposed quay to GRP grid will increase the upward force from wave and wind during storms. The footings needed to anchor the quay will undermine the stability of the historic quay and walls.
- The storage of boats for No.1 Coastguard cottage has already been vertically against the high wall
- These buildings and the cobbled armoured wall are a historical record of an early 19th century Coastguard station and are an important part of maritime history both in the Yealm and nationally
- Fibregrid surface will be inappropriate in this location
- A steel ladder is needed on the quay to increase its use on lower tides
- Access should be given to all cottages users to the new quay
- The quay will collect seaweed which will rot and attract vermin and become a health hazard
- The quay would impede usage of the existing steps

Comments in response to Nash Maritime report:

- The report is not independent as commissioned and doctored by the applicant
- Omitted a discussion on use in relation to the tide
- Even at the top of a neap tide there would be a 2m gap to the top of the deck, at the top of spring tide there would still be a gap of 0.6m.
- the report has not attempted the standard risk analysis approach of quantifying and comparing the risk of the future proposal
- All results fall within 'As Low As Reasonably Possible (ALARP) range or less' which "means that they are acceptable, but some risk reduction should ideally be put in place. But the risk score is calculated using the currently rigged outhaul scheme which has been shown can be re-rigged to improve its use.
- Nash Maritime formed on 30 October 2018 at the time the report was commissioned, and the website says 'under construction'

4 letters of support on the following grounds:

- Photos should foreshore is covered in seaweed and access is dangerous during a high tide
- Previous rentees of no.1 concerned about dangers of access
- Sympathetic to the surrounds
- There are a number of newer quays which provide improved access to the other cottages

1 general comment on the following grounds:

- Works require a MMO licence

Relevant Planning History

- 3078/17/FUL- Construction of a new quay to improve access, withdrawn
- 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 store or safely launch/recover 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 and the sloping revetment to which the proposed quay would be attached is considered to be curtilage 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 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 revetment or the neighbour's steps/jetty at high water, to which the applicant has rights of access. Heavy or bulky materials are usually loaded from Bridge End Quay. Unloading or alighting on the historic stone revetment is difficult and hazardous as it is sloping, uneven and slippery but necessary to manoeuvre the boat into a place and prevent it grounding. It is noted that there has been a dispute between the neighbours of the cottages in terms of access over the steps leading down to the foreshore (referred to in the deeds as jetty), however the deeds do confirm the occupants of no.1 have rights to use the steps. The jetty to the south of the steps is within the sole ownership of the owner of no.2-4 Coastguards It should also be noted that while the owners of no.2-4 have no issue with the applicant using the steps concerns have been raised over the liability of holiday tenants using them. While this is not a planning consideration but a civil matter it is important in terms of understanding the current access arrangements of the different occupiers of the cottages.

The Nash Marine report commissioned by the applicant examined the current access arrangements of No.1 Coastguards in terms of water access and storage of dinghies. Both this report and the Harbour Authority agreed that the current outhaul scheme could be re-rigged for easier use which could reduce the need to walk over the uneven sloping revetment. However, it should be noted this proposed rearrangement of the outhaul would not aid the recovery or launching of dinghies and there would still need a need to walk on the revetment to fend off the dinghy. The Nash report concluded that the proposed quay would provide a helpful level surface to operate the outhaul and would provide the only means for the applicant to comfortably launch/recover dinghies, albeit at high tide.

The additional information provided clarified the proposed quay could be used for access to dinghies for approx. just under 2hrs either side of high water, and would not be submerged during spring tides or in accessible during neap tides. The owner of nos.2-4 Coastguards challenged this assertion by way of photographic evidence of high tides, and the applicant has consequently amended the plans to lower the height of the platform. Nevertheless, the window the platform would be accessible for water access is not considered to have changed significantly.

The proposed quay would provide a safe level platform on which the occupants of no.1 Coastguards could launch and recover a small boat, or unload/load heavy goods at high tide. While there is some ambiguity over the length of this 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 weather conditions, however there is currently no opportunity for safe access during higher points of the tide as the use of the outhaul requires the occupiers to stand on the sloping revetment. Outside of the window that the quay could be used, the occupiers would still need to climb down to the foreshore to board a boat, however the use of the outhaul would be much improved given it would be operated when stood on the level platform.

The neighbour, the owner of no.2-4, the boathouse, slipway and steps and majority of the land either side of the applicant's land, has said they have offered the applicant to swop the outhaul for the one which leads directly into the steps. The applicant acknowledges this would be far easier to operate given it is anchored to a level platform on land and would bring a boat directly into the steps. However owing to the breakdown in neighbour relations the applicant is reticent about how such an agreement could be worked out, particularly given the concerns of holiday tenants' rights of access.

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 very difficult to lift the boats out of the water at the property due to the steep slope of the revetment, as also confirmed within the Nash report, added to which the applicant has to retain rights of access over the narrow strip of level land above the revetment. During the winter months when the ferry is not in operation, if a bad weather warning is issued the applicant has no means to pull the boat out of the water to secure it safely when they are staying at the Cottage. In comparison to the previous application the 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. It should be noted that the neighbour is able to store boats through winter within the listed boathouse (if it were to be repaired and maintained) or on the stone jetty's within their ownership, although the neighbour contends these do not provide dry storage during high tides.

In summary, the proposed quay would provide a stable platform to operate the outhaul and to safely load/unload from at high tide. In addition, it would provide a means to be able to recover and store two boats during winter when there is bad weather and no other means to access the property other than by foot.

Heritage

The Coastguard Cottages are listed as a single item as is the boathouse, both at grade II. The sloping revetment has been considered for listing by Historic England but was assessed not to be of sufficient historic interest to merit individual designation. We have, however, treated it as curtilage listed to the Cottages which, to the best of our knowledge, at the time of listing were in a single ownership with the revetment being shared. This judgement is based on the latest Historic England guidance.

In accordance with our policies, the 1990 Act and the NPPF the heritage assessment has taken on two main considerations. Firstly the impact of the proposal on the character and significance of the revetment itself as a heritage asset and secondly the effect on the significance, special interest and setting of the designated heritage assets, (the cottages and the boathouse).

1. Impact on the revetment as a curtilage listed heritage asset

The revised design has reduced the apparent bulk and the height of the structure. It will be attached to the rubble stone revetment which will involve some small amount of intervention and, therefore, harm to the historic fabric. The profile of the stone revetment structure will remain intact so there will be no permanent change to the historic fabric and the new structure could be fully removed in future should it prove to be no longer needed.

The appearance of the historic revetment will be altered, there is no doubt in that. It will, however, remain entirely legible what has happened even on a most casual inspection.

2. Effect on the Coastguard Cottages and Boathouse

The special interest of the Coastguard Cottages and their associated boathouse lies in their being designed and located in a position to facilitate observation (from lookouts on Warren Point) of water activity with direct access to it to facilitate management and assistance when needed. This highly particular focus on marine activity is integral to the significance of the group and is emphasised by the very relevant reality that the properties can only be accessed by water.

The proposed quay is intended solely to enhance the accessibility of the property. The design is clearly indicative of that purpose so it can be seen as an evolution of the fundamental relationship of people using the property with water craft. It is reasonable to conclude that the introduction of an

improved quay structure does not of itself cause harm to the significance or special interest of the designated heritage assets so long as it is clearly designed to perform that function and nothing more.

Assessment of setting relates almost entirely to the views from the east, either from the water or sites on the other side. The impact on views from the Cottages will be minimal – a landing stage in the foreground of the wider views with tenders stored upon it. Step 3 of the assessment process set out by Historic England in the guidance note 'The Setting of Heritage Assets' states, 'Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it'. The site is in a beautiful location that is viewed, enjoyed and appreciated by many 1000's of people each year. The proposal will change those views, as have the other constructions in the locality including the very utilitarian concrete covering / re-building of the old jetty and two other landing points / waterside structures constructed to the north and south of the site. Applying the HE guidance the specialist heritage officer concludes that the proposed structure will result in some harm to setting, but this harm is relatively slight due to the proposed structure being visually quite lightweight, serving a clear purpose and being (at least notionally) reversible in future. The level of harm has been reduced through negotiated design changes in accordance with Step 4 of the HE guidance on setting.

The use of waterside buildings and quays changes over time and this progressive evolution is visible in Newton and Noss as elsewhere. This nearly always results in a degree of harm but seldom to the point that a locality appreciated for its beauty is considered to have lost that charm.

The most relevant para's of the NPPF are:-

NPPF 194: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.....

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This leads to the question 'what is the Optimum Viable Use for the Cottages?' The fact that all are used as either holiday letting accommodation or second homes suggests that few people have the desire to live permanently in such a location with no vehicular access as their principal dwelling. That being the case the Cottages rely on occupation by visitors / guests and holidaymakers in order to justify their ongoing maintenance and repair.

If holiday use is accepted to be the 'Optimum Viable Use' for the Cottages, what benefits does the proposal offer? It appears to offer safer access to the site for people with limited skills in the handling of watercraft or who rely on a water taxi to get there. It also appears to offer accessibility to a greater proportion of the population who may have restricted mobility. The proposal will only present these benefits to one cottage so that further complicates the judgement needed in the planning balance. However, it is noted that alternative ways to provide enhanced accessibility for that cottage require the use of land or structures not within the control of the applicant.

The specialist heritage officer concludes the proposal will result in some harm to the setting of the heritage assets, but not to their special interest. The harm to the significance of the designated heritage assets is certainly 'less than substantial' and relates almost entirely to impact on setting. The level of harm can be considered justified if it secures public benefit, which includes supporting the optimum viable use of the property and delivering enhanced accessibility for a greater proportion of the population.

Landscape

In addition to the heritage issues, this is a highly sensitive and prominent site within the AONB and undeveloped coast that is afforded the highest level of protection.

Nevertheless, the proposed structure would be low level and supported on timber posts that would fade into the surrounding landscape over time. 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 some concern that this development could lead to a domestication of the foreshore from use of the proposed quay 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 is 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. 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, N3P-8 on heritage and conservation 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 policies 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.

The AONB Estuaries partnership made further comments to confirm the proposal would require a Marine Licence. While a Construction and Environmental Management Plan was submitted it has not specifically detailed how dust, silt and other potential pollutants will be effectively captured and prevented from entering the estuary, as requested by the estuaries officer. The CEMP should also cover how materials will be transported to the site and protection of common oysters. The estuaries officer also requests that all materials are muted colours and timber is left to fade naturally and there should be no additional railings etc attached to the quay, and its size should be kept the minimum necessary. The CEMP condition will therefore request a new detailed document to cover the points above.

Planning Balance

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

AONB. While there is considered to be some harm to the setting of the listed boathouse, this is considered to be less than substantial and outweighed by the improved access for the occupiers of no.1 Coastguard Cottage in terms of its optimal viable use as a listed building. Any development on the foreshore is going to be highly sensitive, however it is considered that in this case there is a need to provide improved access to No.1 Old Coastguard cottage given it does not benefit from the use of the boathouse slipway and has nowhere to store boats during bad weather. It is considered that given the minimal visibility of the 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 & South West Devon Joint Local Plan has undergone a main modifications consultation (22 Oct – 03 Dec 2018) as part of the examination in public to determine the soundness of the plan. The joint councils are waiting to hear from the Planning Inspectorate (PINS) regarding the next steps. Until PINS provide an update, the JLP councils are unable to commit to a timetable for adoption.

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 all emerging policies are 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 2019 NPPF.

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-8 Heritage and Conservation
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. Notwithstanding the details within the submitted Construction Environment Management Plan (CEMP) received on 1st February 2018, further details shall be submitted to and approved in writing by the Local planning Authority in relation to preventing dust, silt and other potential pollutants from entering the estuary, how materials will be transported to the site and where they will be stored, and protection of common Oysters prior to the commencement of development.

Reason: To protect the foreshore from impacts of construction

This needs to be a pre-commencement condition to ensure biodiversity protection measures are in place from the very start of the construction process.

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 shall be kept to a minimum and access/egress routes clearly defined.
- No storage of equipment on the foreshore
- Contractors shall 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

Measures to ensure compliance with the above shall be set out in the revised CEMP required by condition 4 of this permission

- Reason: To safeguard the intertidal and estuarine habitats

7. Prior to their use/installation full details and samples of the materials to be used in the construction of the quay shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details

Reason: In the interest of visual amenity

8. Development shall take place in accordance with the conclusions and recommendations for mitigation set out within the Preliminary Ecological Appraisal by Ecology Services dated January 2018.

Reason: In the interests of biodiversity.