

PLANNING APPLICATION REPORT

Case Officer: Gemma Bristow

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

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

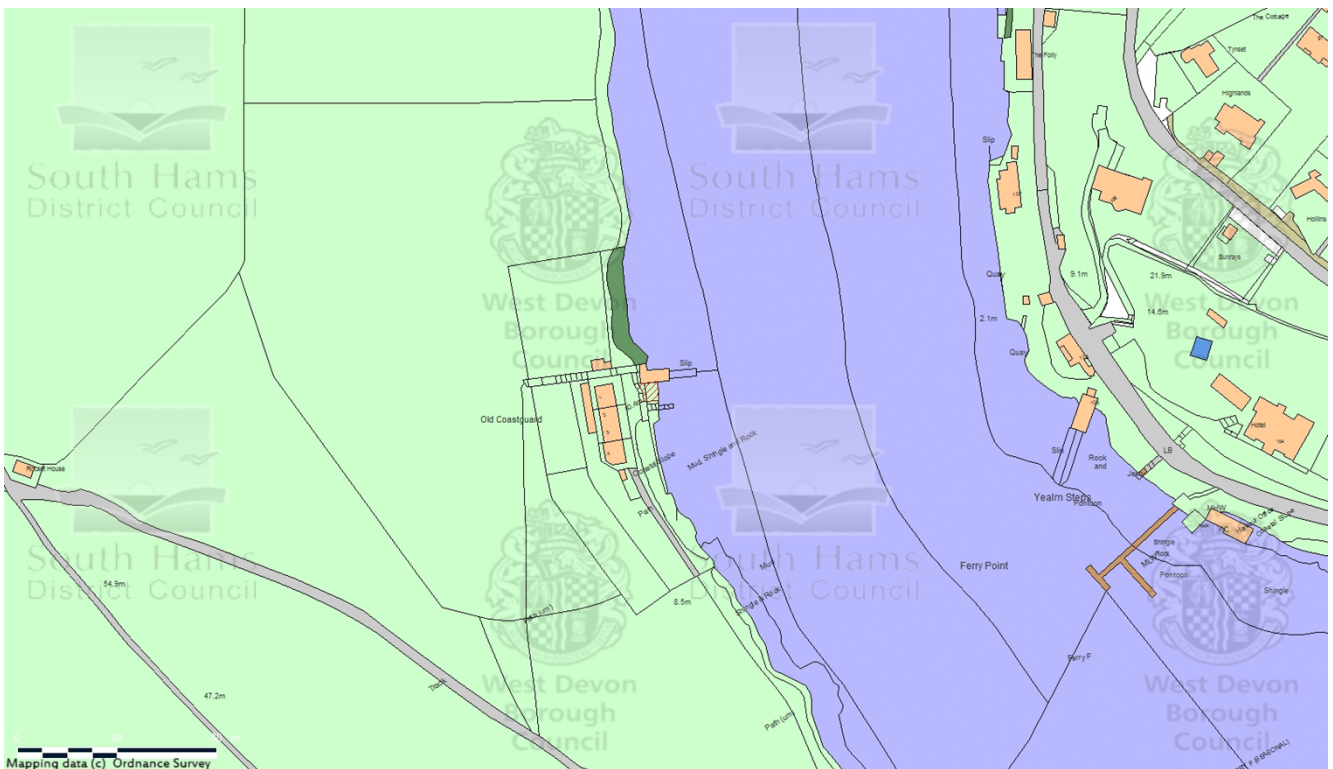
Agent/Applicant:

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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 due to the potential for 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 to 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
9. No davit, ladder or lifting devise to be attached
10. Railings to be removed
11. Any repairs to be made good in matching materials

Key issues for consideration:

Principle, impact on AONB and Undeveloped coast, listed buildings and boathouse, Site of Special Scientific Interest, 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 or by boat from the Newton Ferrers side. The Cottages are also grade II listed, although noted that the list description states there are 3 it is clear from the description that the whole row comprises the designation. 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 of cottage nos. 2 – 4.

The site is within the South Devon Area of Outstanding Natural Beauty, Undeveloped Coast and Site of Special Scientific Interest (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

This scheme has been amended since its original submission: The plans were amended to clarify the position of the platform relative to the adjoining steps and dwarf wall. The platform height was reduced by 0.28m to the base of the dwarf wall. The plan indicates the platform will be 5.9 Chart Datum, which is the height relative to the tidal water height. In addition, the method for attaching the proposed quay to the revetment and ground originally proposed to be anchored to concrete blocks within the adjoining land. This has been amended to resin or grout anchored steel bolt or Duckbill anchors.

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 stand 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 dingy riding over the revetment causing potential damage to the boat and provide a point to entry/egress to the dinghy at certain points of the tide..*

- *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 proposed 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: Further to Nigel Mortimer's consultation response of the 13th September 2018 on behalf of the South Devon AONB Unit, this response provides additional clarification from a designated landscape perspective on applications 2483/18/FUL & 2484/18/LBC. The following advice has been prepared with particular consideration of JLP policy DEV25 on Nationally protected landscapes, NPPF para 172, 2019-24 South Devon AONB Management Plan policies and South Devon AONB Planning Guidance. As a consequence we are content to remove our holding objection subject to the use of appropriately worded conditions.

We agree with and support the comments of the Council's Landscape Specialist and Heritage Specialist. Whilst we do not object to this application, our preferred solution would be a more collaborative use of the existing structures, and the pursuit of this particular scheme introduces additional modern elements into the waterside scene; the modifications made to the proposal by the applicant in combination with the use of carefully selected conditions will limit overall harm to AONB special qualities and natural beauty.

We understand that the applicant has made a number of changes to the proposal that go some way to addressing previously raised concerns and matters that required further information or clarification. Of particular significance to the conservation and enhancement of natural beauty are:

- Deleting the proposed davit from the scheme,
- Amending the platform's fixing system to minimise disturbance to the stone and mortar quayside
- Removing the existing quay edge handrail which is of a design, materials and condition that poorly relates to the historic character and appearance of the quayside.

We also understand that in the context of this proposal, the footprint of the scheme and land over which the applicant has complete control are limited, providing very restricted opportunities for enhancement of natural beauty beyond the removal of the existing handrail and reducing the appearance of clutter created by in the corner of the quayside.

If after weighing the planning balance the LPA is minded to consent this application, the following conditions are requested and considered reasonable to ensure the continued conservation and enhancement of natural beauty of the South Devon AONB. Conditions should seek to cover:

- In advance of any works, a Construction Environmental Management Plan (CEMP) shall be submitted to the LPA with a particular focus on avoiding and minimising impacts on the sensitive marine and intertidal environment. As a minimum 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.
- Storage on the platform is to be limited to boats and water craft.
- The existing handrail is to be removed and no new handrails are to be placed on or around the quay.
- The seven hardwood supports of the quay should be left to weather and naturalise other than to remove and control marine Invasive Non-Native Species such as the Pacific oyster. The supports should be allowed to foul with barnacles, seaweeds, etc. No varnish, stain or oils should be applied.

- The fixing of the quay supports on or into the quay wall (which below Mean High Water Spring line also serves as the foreshore here) must minimise its footprint and impact upon the foreshore, stone and mortar. Any repointing should be kept to an absolute minimum and utilise traditional materials in keeping with the colour and appearance of the rest of the quay wall.
- All fixings of the quay should be of a dark & muted colour and the GRP Fibregid Floor should be of the colour grey as identified in the proposal plans.
- No external lighting is to be installed or used.
- No significant boat maintenance should take place on the quay, as it is above the foreshore and immediately adjacent to estuary waters
- No chemical means are to be used to clean the surface of the quay
- Marine Invasive Non-Native Species, specifically Pacific Oysters must be removed and controlled.

Despite the documents associated with the proposal suggesting otherwise, the application clearly indicates in the photomontage and proposed front elevation drawing, seven supporting columns that extend below the Mean High Water Springs (MHWS) line. The following detail is therefore requested to be included within any additional informatives:

- The application will require a Marine License from the MMO.
- 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 sloping revetment was considered for listing by Historic England but was assessed not to be of sufficient historic interest to merit individual designation. It is however considered to be curtilage listed. The assessment has considered the impact of the proposal on the revetment as a heritage asset and on the setting of the other designated assets (cottages and boathouse).

In terms of the impact on the revetment itself, 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. It is acknowledged that the appearance of the historic revetment will be altered, however the new addition would be clearly legible.

In terms of the impact on the setting of the Coastguard Cottages and Boathouse, the proposed quay would not harm the special interest of the assets provided the proposed quay functions to improve water access. 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. The proposal would change the views of this site and 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 NPPF states when harm is less than substantial it should be weighed against the public benefits and securing its optimal viable use. The optimal viable use in this unique location is

considered to be as a holiday let, and as such a proposal to improve accessibility is considered to help ensure the cottage is kept in use which provides the public benefits.

- 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: Undecided
- 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 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
- Fibreglass 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
- The plans were revised reducing the height of the quay which need to be considered. The lower foundation block will have implications for the structural stability of the retaining wall leading up to the cottages. A structural survey is needed.
- The lowered height of the quay means it will be submerged in a spring tide and storm events.

- The committee report is biased and contains misrepresentations
- The whole site (including the revetment) was in single ownership and with common use long before 1948. The jetty and revetment are included in the 1885 Baring estate map and there should be no suggestion that it or the revetment were a later addition with different ownership
- The ownership of the boathouse and slip or its use is irrelevant to this application
- The outhaul has also been conclusively shown to be no longer relevant, and that is the only point that needs to be made about the outhaul arrangements, but it is repeatedly referred to.
- The main access issues are the long steep steps up to the cottages, not the water access.
- No 2 Coastguards has been used for viable holiday letting for 20 years using the existing access arrangements and there has been no injury, as has No.1 for more than 3 years, including a winter let.
- The intended platform can only be accessed by boat for 1-2 hours maximum on high spring tides of +5.4m CD or greater. These always occur early in the morning or evening. It cannot be accessed by boat at any other tides. In April there are only 8 days with a 5.4CD or higher tide and these are early morning.
- A small boat can be brought out of the water just as easily over the revetment at a high spring tide.
- The owners of No.2-4 have offered the applicant level boat storage behind the quay of No2, together with the whole of No2 quay and outhaul, but this has been declined.
- An absentee landlord cannot 'police' any 106 agreement
- Substantial harm is subjective and there has not been any 'convincing justification'

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 have limited space 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 there is a ferry in operation from April to September which normally runs for six hours per day (10:00 –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 Hamlet 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 described by the applicant as difficult and hazardous as it is sloping, uneven and slippery but necessary to manoeuvre the boat into a place and prevent it grounding. In terms of access over the steps leading down to the foreshore (referred to in the deeds as jetty), the deeds 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, the applicant states concerns have been raised over the liability of holiday tenants using them. While this is not strictly a planning consideration but a civil matter it provides a better 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 by Nash Marine 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 inaccessible during neap tides. The owner of nos.2-4 Coastguards challenged this assertion by way of photographic evidence of high tides, and the applicant consequently amended the plans to lower the height of the platform and revise inaccuracies in the plans. Nevertheless, the window the platform would be accessible for water access is not considered to have changed significantly.

In terms of the window the proposed quay could be used, this has been confirmed as just under 2hrs either side of high tide within the Nash report. Nevertheless, it should be acknowledged that with the quay height at 5.9CD on the top of a neap tide there would be a substantial 1.6m drop from quay height to water level which would require a temporary ladder attached to climb down to board a boat. So while a 2hr window either side of high water is stated in the Nash report, it is officer opinion that only on a spring tide would the quay provide a comfortable platform to load/off load from a boat brought alongside the quay, and on lower tides a ladder would be needed. Spring tides occur twice monthly, and in Newton and wider South Devon high tides during springs are always early morning or early evening, further limiting the window for comfortable use of the quay to these times.

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 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 the applicant states the existing access arrangements are problematic and the proposed quay would make access much easier. 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.

The neighbour, the owner of no.2-4 Coastguards, has said they have offered the applicant to swap the land owned by the applicant for the stone quay, the revetment containing the outhaul and the flat boat storage area. 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.

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 behind the revetment. During the winter months when the ferry is not in operation, if a bad weather warning is issued it is very difficult for the applicant to pull the boat out of the water to secure it safely when 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, although acknowledging substantial improvements could already be achieved by re-rigging 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. It has, however, been treated 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.....

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 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 storage of domestic paraphernalia associated with sitting out/sun deck/BBQs etc. While the applicant contends this point given the cottage is served by a large terrace, this is an area of concern. It is noted that a number of smaller boats/dinghies are currently stored on the land behind the existing stone quay which already detracts from the 'unspoilt' appearance of the foreshore but are fitting with their marine location. In this case it not possible to condition the quay for use for launching/recovery of boats only, as this is not an enforceable condition given the applicants have rights to use their land as they wish in relation to residential use. Nevertheless, the applicant has agreed to pay for a unilateral undertaking to be prepared that would ensure the quay could only be used for the storage of two access boats and restrict any garden furniture. It is considered that in light of the low nature of the structure, the legal agreement to restrict its use and the removal of the railings, it would conserve and to some small degree enhance the natural beauty of the Area of Outstanding Natural Beauty.

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 not 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.

Other

Concerns have been raised on the implications on the structural integrity of the adjoining retaining wall and surrounding structures, particularly given the reduction in height of the platform. However, the method for attaching the quay to the revetment has been amended and as such the specialist heritage officer has not requested a structural survey, and so the issues on the integrity of party walls etc are a private matter outside the remit of this application.

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, subject to the legal agreement to restrict the storage of domestic furniture on the quay.

In terms of the need for the quay, the cottages are in a very unique position being only accessible by boat, and No. 1 Coastguards has limited land to improve its access arrangements, although accepting the applicant has rights of access over the existing steps/jetty. The proposed quay would provide a limited window to comfortably board/alight from boats due to its fixed height above the highest spring tide, however twice a month it would provide an opportunity to bring in bulky goods early morning or early evening. In addition, on those high tides it would provide the only opportunity for the applicant to easily take a boat off the water and store in an accessible position.

While there is considered to be some harm to the setting of the listed boathouse and revetment to which it would be fixed, this is considered to be less than substantial and on balance 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 and somewhere 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. For the purposes of decision making, as of March 26th 2019, the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

TTV26 Development in the Countryside
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV23 Landscape character
DEV24 Undeveloped coast and Heritage Coast
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts
DEV36 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 (13)	17/5/18
P2269-DR-005 (08)	27/2/19
P2269-DR-007 (09)	27/2/19
Site Location plan	25/09/17

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. Development shall take place in accordance with the approved details.

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 and in the interests of biodiversity.

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 and no paint, varnish, stain or other product shall be used that would change the appearance of the timber.

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.

9. No davit, ladder or other lifting device shall be permanently attached to the quay unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure the quay remains an uncluttered platform that conserves the landscape setting.

10. Prior to construction, the railings behind the proposed quay shall be removed and the land made good with materials to match existing. No railings shall be reinstalled without the prior written consent of the Local Planning Authority.

Reason: to conserve the landscape setting of the site

11. Any repairs needed to existing structures as a result of the hereby approved works shall be done with materials to match existing.

Reason: to conserve the landscape setting of the site