

# PLANNING APPLICATION REPORT

**Case Officer:** Jacqueline Houslander  
Staverton

**Parish:** Dartington **Ward:** Dartington and Staverton

**Application No:** 3792/20/FUL

**Agent/Applicant:**

Mr Ben Mitchell  
Kendall Kingscott  
Glentworth Court  
Lime Kiln Close  
Stoke Gifford  
BS34 8SR

**Applicant:**

Gaynor Boyden  
WAVE Multi Academy Trust  
River Dart Academy  
Shinners Bridge  
Dartington  
Devon  
TQ9 6JD

**Site Address:** River Dart Academy, Shinners Bridge, Dartington, Devon, TQ9 6JD



**Development:** Planning application for erection of a new school building on the site of the current school, new reduced car park, associated hard and soft landscaped play areas, new boundary treatment to the site, and removal of 8no. C grade trees and 2no. U grade trees and demolition of two temporary classroom units

**Reason item is being put before Committee:** The Local Ward member considers that the application should be considered by Committee.

**Recommendation:**           **Refusal**

### **Reasons for refusal**

1. The application site lies within an area designated as Flood Zone 2 and 3 and the Flood Risk Assessment submitted has not demonstrated that the proposal will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, contrary to Policy DEV35 of the Plymouth and South West Devon Joint Local Plan and para 164 of the NPPF 2021.
2. The proposed 2.8 metre high security fencing proposed for the majority of the perimeter of the site is considered visually intrusive and impactful on the existing trees on the site and as such is contrary to the principles set out in policy DEV20 and DEV28 of the Plymouth and South West Devon Joint Local Plan and paragraphs 130 and 131 of the NPPF 2021.

### **Key issues for consideration:**

Principle / Sustainable Development

Design, Visual Impacts, the SWD Landscape Character Area (7 – Urban)

Neighbouring Amenity

The Historic Environment

Drainage / Flooding

Highways / Access

Ecology / Biodiversity

Trees.

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### **Background:**

The application site comprises the existing River Dart Academy; an alternative provision school which aims to work closely with primary and secondary schools to provide support to the most vulnerable students.

Students attend River Dart as a result of adverse childhood experiences, traumatic experiences or undiagnosed SEND needs. Students have often been permanently excluded from their previous school or have been referred to the pupil placement panel or medical pupil referral panel, and therefore arrive at River Dart at various stages of their schooling.

The academy seeks to create a nurturing environment for students to get back on track and either return to regular mainstream schooling or complete Year 11 at River Dart. The academy is run by Wave Multi Academy Trust (MAT) which delivers education to pupils across Devon and Cornwall.

The school is currently housed within two temporary buildings and a Grade II listed building at Shiners Bridge. The site is limited in terms of external play area and it is noted that the existing situation / on-site provision is not well suited to provide a secure and comfortable environment for SEN pupils or for the teaching staff. The existing buildings are purported to

be poorly insulated and security, fire safety, heating, cooling and ventilation are a constant issue.

Modern solutions are required as the current school buildings are not well suited and cannot facilitate an engaging and therapeutic environment. Wave Multi Academy Trust were successful in their bid to the Department for Education for funding to construct a new building which will be purpose designed and built with their pupil's needs and the surrounding environment in mind.

**Site description:**

The current River Dart Academy site is two small parcels of land (total 0.71 hectares) to the west of the A385/A384 intersection. The site's area is physically segregated by Bidwell Brook which is crossed via a pedestrian bridge. The northern part of the site consists of an area of grassland, dilapidated buildings and car parking. The south side of the Brook serves as the current accommodation for the school. The school is currently housed within two temporary buildings and a Grade II listed building, Dartington Church of England Primary School, at Shinners Bridge.

The site is located within the SWD Landscape Character Area (7 – Urban), a Greater Horseshoe Bats SAC, the Dartington Parish Council / Neighbourhood Plan Area and a SSSI Impact Risk Zone. The northern-most element of the application site is part located within Flood Risk Zones 2 & 3 with the southern-most element located within Flood Risk Zone 1. The site is also noted as being within a Critical Drainage Area

Also in close proximity to the application site is the Grade II Listed Pair of Gate Piers immediately South of Dartington Church of England Primary School, and further to the east lies the Grade II listed Shinners Bridge House.

**The Proposal:**

The proposed development entails the construction of a two storey teaching space. The original submission indicated a bland rectangular building design on the area currently used as a car park in the northern part of the site. The building will include 6 classrooms, a main hall, specialist teaching spaces for art, science and food technology, staff accommodation, group rooms and ancillary spaces.

Car parking provision will be re-provided to suit the demand of the school. The plans indicate 25 total parking spaces, 2 of which are disabled and 5 are designated for taxi and minibus drop off. Separate hard play areas will be provided for secondary and primary pupils adjacent to the building, with a multi-use games area located centrally. The existing vehicular access point will be retained off the A384.

There are currently 22 pupils that attend the school, and the current Published Admission Number (PAN) is 40 pupils. The school will be built to meet a maximum pupil capacity of 48 to future proof the scheme. However, the number of pupils attending the school will not increase as a direct result of the proposals and the PAN will remain at 40.

The proposal has been amended, reduced in size and scale and is now reminiscent of a set of terraced cottages as opposed to an institutional building. Whilst this results in a building which does not look like a school at all, it does have a better relationship with the surrounding more domestic scale development in the village.

Materials proposed are natural slate; render and stone facing.

### **Consultation responses:**

**Environmental Health:** no concerns regarding the potential for any contamination to affect the new build construction or users of it so do not require any further potentially contaminated land information.

There are no significant external or inherent noise sources with the potential to affect off site receptors so do not anticipate any environmental health concerns with regards to noise.

**Dartington Parish Council:** The Council considered the revised application at its meeting on July 14<sup>th</sup> and is unable to support this application and has the following additional comments:

#### **1. Important information is still missing** especially in relation to:

1. The future intentions of the existing grade 2 listed building.
  - It should be clarified whether the building can be adapted or extended and retained for educational use.
  - The Council is concerned the building should not be converted to housing.
2. Landscape and green space:
  - There is an inadequate and faulty landscape plan which cannot be delivered.
  - Too little green space is provided and there is no space for children to play.
  - The Council is concerned that trees might be felled as they are seen as a potential “escape route” by children and more information is needed about this potential tree felling.
  - Decorative shrubs are proposed which may not be the most appropriate treatment.
  - The extent of the area covered by tarmac is a particular concern.
  - The beech hedge is outside the site boundary, so ownership requires clarification before work is carried out.
3. The impact of the development on wildlife.
  - The impact on bats especially has not been considered, particularly in regard to the 2.8m fence which will affect flying bats.
  - Greater horseshoe bats need a dark development and there is no evidence this has been considered.
4. A lighting strategy for the site.
  - There is conflicting information provided about lighting meaning a lighting strategy which provides an overview is necessary.
  - A high density of lighting is inherent in this design around the buildings and in the car park area which will be lit with E13 streetlights. The impacts of this have not been addressed.
  - The council feels it is disingenuous to claim that the lighting is low level for the MUGA when this is irrelevant because the entire site will be flood lit.

#### **2. Flood risk.**

1. Only parts of the site are suitable for the proposed development and the application must fail the Sequential Test. According to the Flood Risk assessment, 65% of the site is in flood zone 3 which has a high probability of flooding and 5% of the site is in flood zone 2 which has a less high probability of flooding. This means that 70% of the site is at risk of serious flooding.

Buildings in “More Vulnerable” categories must pass the Exception Test before they can be built in flood zone 3 and the following two elements must both be satisfied:

- the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

It is still not clear that this application satisfies these conditions.

2. The Council is concerned that flooding will be exacerbated by the in-combination and cumulative effects of other development including BMX and bike track on adjacent land.
3. The Council is concerned that high fencing will stop water flow.
4. The Council notes that that the Environment Agency on 9/6/21 objected strongly because parts of the site are in flood zone 3 and the Bidwell Brook must be allowed to overflow during storms.
5. The loss of absorbent surfaces and woodland habitat contributes to the flood risk. The Council suggests that removing the MUGA and reducing parking on site would reduce flooding.

### **3. Design:**

1. The Council appreciates the radically changed design as a response to comments, but it would like to reiterate its concerns about the scale and massing relating to the new build and its proximity to the existing historic buildings and the main road.
2. The Council is concerned that the revised building design still does not respect the historic local character at this prominent position in the village.
3. The Council feels the chain link security fencing all around the site is inappropriate and intrusive in this location, being too high and too close to the Bidwell Brook. The Council requests that the fencing be reconsidered.

### **4. Ecology:**

- The Council notes that County Ecologist had expressed concerns as the site has high bat activity and dormice present.
- The Council feels the site should be a Dark Development and lighting should be limited to 0.5 lux for the benefit of wildlife, bats especially.
- The Council notes that the loss of woodland habitat causes damage to wildlife and particularly impacts flyways for bats.
- The Council feels that the habitat trade-offs: providing bat boxes and spreading wildflower seeds is box ticking and inadequate. Spreading wildflower seeds in particular can be damaging to the local flora.

### **Trees:**

No objection on arboricultural merit subject to the following documents being made approved plans if consent follows:

- Arboricultural Impact Assessment: Unreferenced 7/10/20
- Arboricultural Method Statement: Unreferenced 7/10/20.

The following revised/ new supporting documents have been reviewed

- Site Plan: 181074-503 P14

It has been brought to my attention that a 2.8m high permanent fence is proposed to be installed amongst the canopies of several mature trees and adjacent to their stems. If approved this would be likely to necessitate the removal of significant live crown portions to afford space.

The applicant has not demonstrated that this height of fencing can be installed without adverse impact on trees to be retained and therefore I am unable to support this element of the application.

#### Revised recommendation

I would recommend the removal of this aspect of the application, but continue my no objection response for the wider scheme.

**Opens Space, Sports and Recreation:** Objection, based on concerns over the relationship with the adjacent park and play area to the north. Recommends additional planting to reduce the impact of the building (in terms of reducing the visual impact of the building and potentially moving the building away from the northern boundary).

Suggest an offsite contribution to a MUGA rather than providing one on site. It could then be used by the school and the wider community. If this is not possible, could the MUGA on site be used by the community outside of school hours – to be secured via a planning condition.

**Ecology:** Initial comments from DCC ecologist requested further information be submitted. That additional information was provided, but the ecologist has yet to provide comments. Their comments will be available for the Committee. If they remain concerned, there may need to be an additional reason for refusal.

#### Landscape:

Any development proposals in this location must be sensitive to relationship of the site with the adjacent settlement; the nearby open spaces, and the close proximity of the valued habitats of the Bidwell Brook corridor, in order to avoid harming the recognised character of the area. The previous submission raised a number of concerns but it is felt that the revised building design is more sensitive and sympathetic to the landscape and townscape setting. The wider Landscape character is felt to be conserved. At a more localised level, the proposed building appears to fit in relatively unobtrusively with the pattern of development, and for that reason officers are satisfied that the proposal would accord with JLP landscape policies and their objectives.

There are, however, some details in relation to the hard and soft landscape design that require further consideration:

- The future intentions for the Grade II retained building are not clear, and the reinstatement proposals for the site, where buildings are to be demolished, is not explained. The Site B area, including areas to be replaced with landscaping, is not included in the external works hard or soft landscaping proposals.
- The site plan and planting plan both show some areas of path to be self-binding gravel (west and south of MUGA, and north of new building), and the hard landscape plan shows all path surfacing to be asphalt. Asphalt would be supported across the site as a more practical choice.
- Officers are concerned that the extensive lengths of 2.8m high security fencing will have an unacceptable adverse impact on visual amenity in this location, and would request that the layout for this high fencing is reconsidered.
- How will the 2.8m security fencing be installed in amongst existing trees, without harming them where canopies are lower than 2.8m?
- The planting plan indicates that the new beech hedge is outside the redline boundary

of the site so the ownership and long term management of the hedge requires clarification.

- It is noted that the planting plan contains a label stating that the existing tree canopies are to be cut back and lifted to allow sufficient light for the proposed shrub planting. Given the extensive tree canopies around the site, and the amount of shade cast, especially along the western boundary, the appropriateness of including areas of proposed native shrub mix is questioned.
- Officer's comments about the soft landscape proposals and tree species selection should be noted.

I would recommend that the SHDC Tree Officer's view should be sought on the acceptability of the installation of security fencing, and proposed trimming of retained tree canopies to facilitate ornamental planting growth below.

**Recommendation:**

Officers are satisfied that the proposal would accord with JLP landscape policies and their objectives, so no objection on Landscape merit, subject to clarification of issues identified above.

Noting the issues raised in relation to the hard and soft landscape proposals currently presented, if Officers are minded to recommend approval, acceptable, detailed hard and soft landscape proposals could be secured by condition.

**Devon County Council Education services:** Devon County Council had previously reviewed other potential sites for this education provision, within its own and other public ownership. The other sites have been discounted. There is insufficient available funding to support a site purchase.

**Historic England:** No comments

**Natural England:** As submitted, the application could have potential significant effects on greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC), and Bulkamore Iron Mine Sites of Special Scientific Interest (SSSI). Your Authority will be required to undertake a Habitats Regulation Assessment (HRA) before determining this application.

The proposed development site falls within a greater horseshoe bat sustenance zone associated with the South Hams SAC bat roost at Bulkamore Iron Mine. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential bat habitat or increased illumination within the sustenance zone and has the scope to adversely affect the favourable conservation status of the SAC bat populations.

The South Hams SAC – Greater horseshoe Bats. Habitats Regulations Assessment Guidance (October 2019) sets out the information required to undertake a detailed HRA, including the bat survey requirements.

Natural England must be consulted on any Appropriate Assessment the LPA prepares, prior to determining the planning application.

**Environment Agency:**

First response received 21 Jan 2021.

We object to this proposal on grounds that the submitted flood risk assessment (FRA) has not demonstrated that the proposed development will represent betterment on the current situation on site, and not increase flood risk elsewhere. We recommend that the application is not determined until a satisfactory Flood Risk Assessment (FRA) has been submitted.

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

This response was based on the fact that the vast majority of the site lies within Flood Zones 2 and 3 and therefore the site is at risk of fluvial and surface water flooding. The site also has a known history of flooding (2012 being a particularly bad year). A number of specific issues were raised by the EA which the FRA needed to address.

[Officer note: Discussions have taken place since the initial objection between the applicants drainage engineers and the Environment Agency and in relation to the revised building design.]

#### **Environment Agency, latest response: July 2021:**

We maintain our objection to the proposed development on flood risk grounds in particular the potential to increase the risk to third parties. Further to our previous correspondence on the 9 June 2021, which set out some of the main issues with the flood risk assessment (FRA)/design (which are still valid) we provide the further reasoning below.

Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already.

#### **Reason**

As outlined in our previous responses, the site is at significant flood risk, with large parts of the site classed as functional floodplain (flood zone 3b), i.e. the area in which flood water flows during a flood event. Changes to their essential operation will increase flood risk to third parties (including other local schools) which is contrary to NPPF paragraph 163. The proposed school building, the required security fencing and MUGA pitch are not suitable for this location due to the flood risk. We have records of the site flooding on average twice a decade, to various depths/hazard classifications.

The risk is of fluvial flooding and surface water flooding.

The security fencing around the site, represents a major obstruction to flood flows that cannot be compensated for. It will catch flood debris and raise water levels around the site, impacting the other schools. The loss of flood storage/conveyance would also impact land downstream, such as the main road and commercial businesses. The NPPF is clear that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Whilst the proposed building could be raised above the flood level and provide a safe route to higher ground, the rest of the site will flood, with significant/extreme hazard and be a "Risk to

Life". The footprint of the proposed building would extend into the functional flood flow route, and would require adequate compensation.

We have previously advised that a small building in the north east corner of the site would be acceptable. This included a small amount of parking with types of fencing acceptable in flood risk terms. The current proposal goes significantly beyond this previous advice.

Whilst we can provide a flood alert for this area (i.e. flooding is possible, be prepared) specific flood warning cannot be provided for the Bidwell Brook and therefore we cannot inform the occupants that flooding is expected and to take immediate action.

In addition, we maintain our concerns regarding the FRA and the flood model upon which the FRA is based. In order for us to accept the results of the model, we would need to review the full model, in conjunction with our historical records.

We recently met with the applicant to discuss the flood risk and there appears to be no design changes that can be made (the security fencing must be part of the design) in order to make the development acceptable in terms of flood risk, therefore we must maintain our objection.

**Devon & Cornwall Police:** No objections in principle, but highlight that school buildings can be vulnerable to criminal activity. Recommends that the school building be designed to meet the principles of Secured by Design Schools Guidance 2014.

**Devon County Council – Education:** Support as it supports children and young people who require additional educational support. The existing buildings are not suitable for delivering a modern personalised curriculum and the temporary classrooms are nearing the end of their life.

**DCC Highways:** Recommend approval subject to conditions

### **Representations from Residents:**

275 letters of objection have been received in relation to the previous proposal as well as the current proposal, although there have been less in relation to the current proposal.

In summary relate to the following points:

- Design and Visual Impacts (appearance, scale, massing, density, materials, out-of-keeping with other nearby buildings, impacts upon character and appearance of the area, overdevelopment of the application site, 'Gateway', 'Hostile', 'Industrial' )
- Impacts upon adjacent play park / overshadowing / loss of light
- Impact on the historic environment (redundant use of the listed building)
- Ecology / biodiversity (proximity to Bidwell Brook)
- Drainage / flooding (drainage and run-off to Bidwell Brook)
- Trees (removal of apple orchard / proximity to woodland)
- Privacy / Over- dominance
- Light pollution / Greater Horseshoe Bats and lack of surveys
- Other candidate sites should be considered (Aller Park & Foxhole on the Dartington Estate, King Edward Community School, Totnes (amongst others)).

- Highway Safety / Increase in vehicular traffic / poor air quality / car parking / pedestrian safety / taxi levels
- Low-carbon development (absence of plan to accord with JLP Policies DEV32 & DEV33)
- Concerns as to why the existing building cannot be re-used and improved.
- Intrusive security fencing at 2.8m high
- Accompanying documentation insufficient to assess impacts on heritage assets and the proposal's likely visual impacts.
- Noise and smell disturbances (waste & dust)

18 letters of support have been received and cover the following points:

- Current facilities are poor and difficult to create a positive learning environment
- A new purpose built building designed to meet their needs will help ensure these young people feel valued and get the high standard of education they deserve.

4 undecided representations have been received and cover the following points:

- Impacts upon Greater Horseshoe Bat habitats, flyways and roost destruction
- Radio tracking surveys required
- In-combination effects of lighting
- Licenses from Natural England.
- Impacts on other European Sites (SAC etc)
- Concerns over fencing, design and visual impacts and car parking provision.

Objections from local organisations in relation to the previous scheme (Dartington Swimming Committee; Dartington Recreation Association; 2 x Parish Councillors (in their private capacity))

- Do not object to the school building but do object to the design.
- Loss of privacy and overlooking of play park and the swimming pool
- Overshadowing in the vicinity
- Over dominance
- High security fencing will impact on the local area  
a solid, two story rectangular block of no architectural appeal or sensitivity to the location on the main highway into the village.
- The building backs onto the park without acknowledging its existence.
- The metal fence and tall industrial style building will change the character of the play park.
- Insufficient landscaping
- No ref to Neighbourhood Plan
- Existing adopted Open Spaces, Sport and Recreation Strategy is proposing a MUGA 200m to the north. Could this not be a shared facility?
- Loss of trees and undeveloped greenspace
- Impact on ecology
- This proposal will have a negative impact on the amenity value of the playpark.
- The nearby listed buildings will be detrimentally affected by the large, out-of-character appearance of the proposal.
- Missing information
- Harm to designated and non-designated heritage assets
- Over development
- No Heritage assessment has been provided. Para 192 of the NPPF requires an LPA to take account of sustaining the significance of heritage assets by a) keeping them in viable use, consistent with their conservation, b) recognising the positive contribution a heritage asset can

make to sustainable communities, and c) the desirability of new development making a positive contribution to local distinctiveness and character.

- Para 193 of the NPPF places 'great weight' on the conservation of designated heritage assets.
- Contrary to Policies DEV20 and DEV21 DEV23 and Dev29 in the JLP
- Information was uploaded after the Parish had been consulted, this is unreasonable and resulting in less transparency.
- Insufficient evidence in the heritage statement to demonstrate the assertion that the proposal will have no impact on the listed building.
- The intervening trees between the application site and the listed building will not screen the development from the listed building. Some of the trees are proposed to be removed and there will be views between the two buildings.
- No visual impact assessment has been submitted.
- The tree report is not an adequate arboricultural report. It evaluates trees in terms of its subjective opinion of amenity, not wildlife and fails to understand the original use and locally distinctive nature of the site
- What will happen to the school if the temporary buildings are removed. What will its use become?
- Viable options should have been discussed at pre-application with the Council's heritage specialist officer
- The brick and fibre-cement cladding proposed are contemporary utilitarian building products which appear to have been chosen for economy and no/low maintenance.
- The industrial northlight roof profile of this pitched roof bears no relation to the Gothic Revival slated roofs which are a principal feature of the listed building.
- The applicant has failed to demonstrate an understanding of the significance of the heritage asset, making it impossible to assess the harm.
- The other heritage assets in the area should also be assessed - St Mary's school (listed at Grade II); the immediate South of the application site, are two terraces of listed Grade II C19 almshouses built in limestone random rubble with timber mouldings; well-preserved early C20 village hall on the same scale (non-designated heritage asset) with Gothic Revival detailing over the porch. Grade II listed Shinnars Bridge Farmhouse and curtilage-listed buildings
- this cluster of Gothic Revival buildings at Shinnars Bridge has significant group value.
- Taken together, the Gothic Revival buildings, the non-designated heritage assets, the gables and prominent stacks of Shinnars Bridge farmhouse, and the former Cider Press buildings form an architecturally coherent group.
- The landscape character of the setting is appropriately semi-rural, enhanced by dense tree cover, woodland, informal boundary treatments, rubble walls, green banks, and substantial open green space.
- The development will completely alter the semi-rural setting of the listed village school, and permanently compromise its architectural quality.
- The applicant does not appear to have considered options which might mitigate harm., including maintaining the listed building in use, and ensuring its future contribution to the sustainability and vitality of the community.
- There is no clear and convincing justification for the replacement of the temporary buildings. No alternative use has been proposed; this puts the school at risk of long-term neglect and decay
- The scale, mass, proportions, and design of the proposed development do not respect the coherent group of small-scale Gothic Revival and vernacular buildings.
- The development will be a dominant, and visually intrusive feature in long views on the approach into Dartington.
- Several mature trees need to be removed to accommodate the development.
- The car park is too small and does not accommodate pedestrian space or sufficient turning space
- The building is overly urban in character, is oriented to maximise the visual impact; overbearing on surrounding uses and incongruous.
- The 2.8m security fence, will severely affect views on A384 approaches from the North, and views from the Shops at Dartington.

- the continuous perimeter fence proposed will appear inappropriately defensive in this gently landscaped context.
- The building is large and industrial in style.
- the materials include a great deal of concrete with a high embodied carbon and cladding.
- The design looks very similar to many clone industrial buildings that pay no reference to its locality.
- The very high metal fencing is intrusive and urban in nature.
- Detrimental to the Greater Horseshoe Bat population.
- No dormouse, or otter surveys.
- Question marks over the number of trees which are graded 'C'

## Relevant Planning History

14/0293/01/CM

Shinners Bridge Dartington Totnes TQ9 6JD

Variation of a condition to allow all temporary units to remain on site for a period of a further five years COUNTY MATTERS APPLICATION

County Matters Application (consultee only)

Conditional approval 10/04/2001

14/1860/13/CM

Shinners Bridge Dartington Totnes Devon TQ9 6JD

County matters application for additional teaching accommodation, parking, hard play area and external storage. Landscaping and site works

County Matters Application (consultee only)

Conditional approval 9/10/2013

## ANALYSIS

### Principle of Development/Sustainability:

The principle of replacing a school facility with another building for the same purpose falls firstly to be considered against the strategic policies SPT1 and SPT2 in the Plymouth and South West Devon Joint Local Plan. The strategic aims of the plan are towards the provision of sustainable development in line with Government guidance contained in the NPPF 2021. The JLP policies provide direction in SPT1 by focussing development on the contribution it makes to the 3 arms of sustainable development: economic; environmental and social. Policy SPT2 provides more detail about what makes sustainable development.

The proposal to replace a school which already exists within this settlement would contribute to many of the objectives in policy SPT2. The principle of this development is therefore supported.

### Design

The initial proposal generated a lot of local representation objecting to the development, with the design being one of the main concerns. The building was described as industrial, bland, out of context. The previous proposal was a rectangular block with little character and would not have contributed to the sense of place identified in Policy SPT2.

The current proposal is a much altered proposal. It is located on the same footprint as the previous proposal, but is smaller and its design has been altered considerably.

The current proposal is reminiscent of a terrace of cottages, with articulation provided through the dormers in the roof and the double gables end elevations. The materials

proposed are natural slate for the roof and a combination of render and stonework on the walls. The revised Design and Access statement describes the changes:

*“The roof is pitched at 45 degrees and is finished with slate tiles, strongly reflecting the roofs of historic buildings around Dartington.*

- Stone cladding is proposed to feature walls of the building - around the main entrance, and to the most prominent facade that faces onto the A384. This strongly reflects the material choice of the historic buildings in the facility*
- Architectural chimneys are employed to the gable ends of the building as a further nod to the use of chimneys in the number of listed buildings in close proximity to the site. Dartington Church of England Primary School, Shiners Bridge House, Shinner’s Bridge Cottages and Spending Cottages, all grade II listed, all are characterised by their use of stone, slate pitched roofs, gable ends and chimneys.*
- Render is featured along the other facades of the building in two neutral tones that do not demand attention but break up the length of the facade. The simplicity of render sits well against feature stone elements and reflects the material choice of some of the closest residential buildings to the site.*
- The first floor classrooms feature dormer windows and roof lights that maintain functional teaching spaces internally whilst articulating and breaking up the roofscape.”*

The proposed design has taken the Dartington context into account, providing a natural slate roof, elements of render and stonework and chimneys (albeit false) which is a particular feature of many properties within Dartington. Whilst it does not look like a typical school building, it is considered that in this case the context demands a more creative solution. The building will be visible by passing pedestrians and drivers along the A385 and will be more acceptable in this setting than the previous design. It is considered that the proposal would meet Policy DEV20 in the JLP.

A further issue which was of concern to local residents, the Parish Council and the Council’s Landscape Specialist as well as Planning Officers was the proposed fence around the site and its height. The proposal is for a 2.8m high wire mesh enclosure fencing - green around most of the perimeter of the site. The entrance area is 1.2m high hit and miss timber fencing.

Officers discussed the height of the fence with the DCC’s education representative and the architect, as 2.8 metres seems excessive. The response was that the height was required because the children are prone to leaving the site. Whilst this may be the case, the fence also appears to run through areas where there are existing trees and the footings of the fence could impact on the root systems of the trees, and the upper parts of the fence could impact on the branches of the trees. The Tree Specialist has identified that there will be an impact on the trees if the fence remains in the scheme.

The applicants do not wish to alter the height or location of the fencing and so it is considered that the visual and possible impact on the trees is not acceptable and contrary to Policies DEV20 and DEV28.

#### Landscape:

The area in and around the site is partially tree covered, particularly as it runs along the Bidwell Brook. The proposal has attempted to ensure as few trees as possible are lost as a result of the development. The Council’s Tree Specialist has confirmed that there are no arboricultural objections to the development provided that the relevant documents are made subject to an accord with plans condition.

Objections to the loss of trees on the site have been received. The applicants indicate that they have tried to keep the tree loss to a minimum, and the Arboricultural Impact Assessment indicates that “ *the trees to be removed have a relatively low visual amenity value and their loss will not have a significant impact on the character or appearance of the local area.*” It is also indicated that more trees will be planted than are due to be removed. Apple trees are being proposed as part of the planting replacement scheme and the significance of the Erman’s Birch (T806) as part of a group of trees planted in memory of a primary school teacher has also been noted. It is agreed that if it is not possible to relocate the tree (which will be the first course of action) a semi mature replacement will be planted. The other trees within this group are to be protected.

The Landscape Specialist has also provided comments on the proposal and whilst there are no in principal objections to the development, highlights a few matters which require due consideration, as identified above. There is a question over the use of asphalt and some areas of self-binding gravel. The preference would be (from the Landscape Specialist’s perspective) for asphalt across the scheme. This issue can be dealt with by planning condition if necessary.

The 2.8 m fencing is also an issue for the Landscape Specialist, particularly in relation to its adverse visual impact and its impact on tree roots and canopies because of its height, when installed. The Tree Specialist also raised concerns about the 2.8m high fence proposed for the perimeter of the school site and expressed concerns about the impact of the fence on the trees. It was suggested that the fence be removed from the application. As it is still on the application and has been described as an essential part of the proposal, it remains part of the application.

Some of the proposed planting is also shown outside of the red line plan and as such the application would not be able to control these areas. This particularly applies to the beech hedge.

There remains some concern about the impact of the development on the existing trees and as such the Landscape Officer would defer to the Tree Specialist to comment in the acceptability of native low level planting under the tree canopies and whether it is acceptable to lift the canopies to allow for light to penetrate to the woodland floor.

A number of the objections to the development also make reference to the impact on the development on the existing trees, however the Tree Specialist has indicated that provided the construction takes place in accordance with the Arboricultural Impact Assessment and Method Statement, there are no concerns, except for the provision of the fence, which is not acceptable and results in conflict with Policy DEV28.

#### Heritage:

The Heritage Statement within the Design and Access statement states that the large number of trees on the site and surrounding the existing school site, prevent any views between the listed building and the proposed building. The other listed buildings such as the cottages on Cott Road and Shinnars bridge house “*are not visible from the proposed building location, nor is the proposed building visible from these properties.*”

In coming up with this revised proposal the architect and Council’s Heritage Specialist reviewed the existing listed buildings in the area and acknowledged that “*Dartington Church of England Primary School building, Shinnars Bridge House and the terrace cottages is grey*

*Devonian limestone rubble, with a steep dark grey slate roof. They feature gable ends and prominent chimneys.”*

The Heritage Specialist recognised that “the distance between the application site and the designated heritage assets is considerable with limited inter-visibility.” He also noted that “the proposal offers considerable benefits in terms of the setting of the grade II school by virtue of removal of the temporary classroom buildings.”

Details of what would happen to the existing listed building on the site were raised in some of the letters of representation and at the moment no information has been forthcoming about the future use of that building. There are no objections to the proposal from a heritage perspective.

#### Neighbour Amenity:

There are no residential properties immediately adjacent to the proposal site. There will therefore be no residential amenity impacts from the development. The proposal site lies within an area where education is a primary land use. Dartington Church of England Primary School lies to the north of the site; Bidwell Brook Special Education School lies to the north east.

The Dartington outdoor swimming pool and the adventure park are to the north east. As is the newly permitted cycle route through the woodland. It is a space where the community meet in different guises. Some of the objections to the development relate to the surrounding uses and there is concern from objectors to the scheme that the building will overlook the swimming pool and nearby park. Having reviewed the plans and the location of the swimming pool the distance between the two uses is approximately 86m away and Officers do not consider that there will be any overlooking from this distance. In addition there is intervening tree cover between the proposed building and the swimming pool.

As for the park immediately to the northwest, it is much closer than the swimming pool to the proposed building. The elevation of the building facing the play park contains 3 classrooms at first floor level and 2 at ground floor level with an eating / teaching space on the ground floor.

Whilst there may be occasional looking out of the windows from the proposed school building, this would be no worse than for houses which are located adjacent to parks or the public car park adjacent to the park or the community centre further north. In fact likely to be less because of the limited times the students would be able to look out of the windows. The proposed plans also indicate a hedge along the northwest boundary outside of the proposed 2.8m wire fence, so this would prevent any overlooking from the ground floor rooms.

It is not considered that the location of the school is a substantive reason to refuse the proposal.

#### Highways/Access:

The highway authority have requested additional information for the bell mouth at the entrance to the site. A condition can be applied to any consent to secure this.

#### Drainage:

Part of the application site lies within Flood Zone 2 and 3 and as such the NPPF requires the sequential test to be applied to the development proposed. A Flood Risk Assessment (FRA) has been provided and indicates that the majority of the site lies within Flood Zone 3 (an area with a high probability of flooding). The far northeast corner and far south west corner of the site is in Flood Zone 1. 33% of the site is in the medium to low risk of flooding.

The location of the new teaching building is predominantly within the “very low” to “low” risk northeast corner of the site. In terms of surface water risk, the FRA indicates that

*“During a “high risk scenario” (more frequently occurring), the northeast corner of the site, where the building is to be located, is not expected to experience any flooding.*

- *During a “medium risk scenario” (medium frequently occurring), the northeast corner of the site, where the building is to be located, is again, not expected to experience any flooding.*
- *During a “low risk scenario” (less frequently occurring), the northeast corner of the site, where the building is to be located, is expected to experience some surface water flooding, of up to 300mm depth, coming from the land above the school site to the north.”*

The FRA also commented that over the design life of the building when considering a 1:100 year scenario plus climate change (identified as 13%)

In terms of planning, the site is predominantly (circa 65%) in Flood Zone 3 (high risk), with circa 5% in Flood Zone 2 (medium risk) and circa 30% in Flood Zone 1 (lowest risk). Circa 70% of the site is at “medium” or “high” long-term flood risk.

The use of the building would be described as ‘more vulnerable’ (NPPG- para 66 table 2).

In terms of the sequential test, Devon County Council have written in relation to the application that *“no other suitable County or public-ownership sites are available within the county for the school. Devon County Council also confirmed that the location of the school is strategically well placed to support learners.”* It has also been confirmed that there is insufficient funding available to purchase another site for the school.

A sequential approach to the location of this school has therefore been carried out and no other sites are available for this specific school requirement.

As such the exceptions test is triggered. The exception test (para 160 NPPF) indicates that to pass the exception test, both of the following 2 elements must be satisfied.

- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- (b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The site is currently in use for education and for children with additional needs. There is an undoubted community benefit from such provisions and it is understood that there are only 3 such provisions in Devon. Therefore in terms of sustainability benefits to the wider community the proposal will meet that test.

The location of the building in the part of the site with the lowest flood risk is argued by the applicant that the building will be safe for its lifetime (circa 60 years).

The applicant also argues that the occupancy rate of the school is also a relevant consideration. The FRA states...*"Assuming 10 hour occupancy per day, 5 days per week for 40 weeks per year, represents an occupancy rate of just 23% per year."*

The FRA proposes as a result of the modelling that the ground floor level of the proposed building should be at 16.75m AOD, which is a cautionary level as the modelling indicates that slightly less could be achieved.

The layout plan indicates that safe egress is provided via path around the north and east side of the building via a new gate to the B384 highway. The path is at 16.35m AOD rising to 16.7m AOD at the site boundary which would, the applicant indicates, provide a safe and dry egress route. In addition a Flood Warning and Evacuation Plan is being developed, which would propose evacuating people before the onset of flooding.

Other areas of the site will be subject to some level changes – parking and circulation levels are to be raised by approximately 130mm and the area where the MUGA is proposed will be dropped by a similar amount.

In those areas flood predictions indicates:

Circulation and mini bus/taxi drop off = 0.10m to 0.4m

Car park = 0.35m to 0.95m (worst case scenario)

MUGA = 0.5m to 0.8m.

The modelling by the applicant also indicates that flooding will not be increased elsewhere as a result of the development. Attenuation tanks are proposed to accept the surface water runoff from the site.

As can be seen the Environment Agency have had a number of meetings with regard to this site and maintain their objection to the proposal. They maintain concerns with regard to:

- The model used to test the flood risk across the site;
- The potential risk to third parties
- Has the sequential and exceptions test been satisfied?
- Significant risk of flood, with large parts of the site in the functional flood plain (flood Zone 3b);
- The building, the security fencing and the MUGA are not in a suitable location
- Security fence represents a major obstruction to flood flows – catching debris and raising flood levels and potentially impacting downstream.
- Accept that the building could be raised to provide a safe egress, the rest of the site will flood, with significant/extreme hazard and 'be a risk to life'

The Environment Agency consider that the proposal will not meet part b of the exception test and will not be safe for its lifetime taking account of the vulnerability of its users, and will increase flood risk in the surrounding areas and will not reduce flood risk overall.

The objection is therefore a considerable issue for the project as a whole and the development would be in conflict with both the NPPF 2021 and policy DEV35 in the JLP if approved.

Ecology and biodiversity:

The many trees and the river in and around the site results in an area where wildlife is prolific. An ecology survey was submitted with the application and further information was requested by the Council's ecology representative as there was insufficient information to provide clear recommendations. That information has now been submitted, however as of writing this report a response from the ecologist has not been received.

It is noted from the updated ecology report that all species of bat were recorded on the site, including Greater Horseshoe bats. In addition badgers, dormouse, nesting birds, invertebrates, otters and reptiles were all found within 1km of the application site and all are likely to be present in some form or other.

Recommendations from the ecology report include:

- Development should be carried out on the basis of the lighting strategy submitted
- No vegetation clearance works should take place between 1st March and 31st August inclusive
- An exclusion zone should be installed with Heras fencing along Bidwell Brook to prevent potential impacts to the watercourse and any wildlife (including otters) that may use it.
- The proposals could cause injury/harm to reptiles in the compost heap in the north-western corner of site. It is
- Recommended that an ecologist deconstructs the compost heap by hand and any reptiles are removed to a pre-constructed small hibernaculum if carried out in winter, or to a pre-determined suitable area of the site if carried out in the summer.
- The scheme will achieve a net biodiversity gain of 33% primarily due to the enhancement of amenity grassland with wildflower meadow seed mix. Other enhancements include new native shrub planting, replacement trees for those lost as part of the works and an integrated bat box and two (sets of three) swift boxes on the southwest elevation of the new teaching block.

Conditions would need to be attached to any consent, to ensure these measures are properly undertaken.

It is also noted that the biodiversity net gain from the development is 33% which is significantly more than the 10% recommended in the Supplementary Planning Document.

Initial comments by the ecologist requested additional information and that an HRA was undertaken. The comments and HRA have not yet been received, however will be available for the Committee meeting and will be provided through a verbal update. If the comments still raise concerns with the proposal, it may be necessary to include an additional reason for refusal.

#### Climate change:

An energy statement was submitted in support of the application which indicates that Air Source Heat Pumps (ASHP) are deemed the most appropriate renewable technology, which achieved a Co2 saving of 44.4%.

Other measures proposed are:

- Site layout – building oriented to have the short side of the building facing south to reduce solar gains in summer. The classrooms are along the longer side which will receive solar gains in the winter.
- Fabric first reducing the U values.
- Energy efficient lighting

- It was found that the use of ASHPs was the most practical and low carbon means of heating the building. Photovoltaics are not proposed because of the huge Co2 saving provided by the ASHP.

It is considered that the proposal in terms of carbon reduction measures incorporated would meet policy DEV32 requirements. If members were minded to approve the proposal against officer advice, an amended plan would need to be received showing the position and size of the air source heat pumps as they would require planning permission in their own right on a building of this nature.

#### Parish Council and resident objections to the development.

The Parish Council have provided a long list of concerns with the proposal, which are provided in the earlier part of the report. Some of the issues raised have already been considered in the bulk of the text, however those that have not will be considered below.

- Support the principle of the school
- Overdevelopment
  - o Poor Design
  - o Poor Heritage statement
  - o Overlooking
  - o fencing
- Flooding implications
- Environmental concerns.

The objector letters are along similar lines. It is positive to note that the principle of the school is generally supported. Some of the concerns raised through letters of representation are based on the previously submitted scheme and certainly in terms of design the current proposal is more sympathetic to its context than the previous version. In fact there have been 18 representations since the revised design, far less than when the scheme was originally submitted, when over 275 objections received. The amended design is therefore more favourable.

In terms of design, the proposed building is smaller in scale and size and is more appropriate to its context, as well as using appropriate and better quality materials.

The Heritage Specialist has confirmed that the proposal would not impact on the listed buildings within the vicinity; the Tree Specialist has also confirmed that the trees to be removed are acceptable, but that the fence should be removed from the application because of the impact on the existing and retained trees.

#### Planning balance and conclusion:

The proposal seeks to provide improved accommodation for a group of children with additional needs already located on the site. The social, economic and community benefits of the proposal are acknowledged and accepted. In principle, the proposal is acceptable. In terms of design the current proposal is far better than the one which was originally submitted and whilst it does not represent an institutional style of building this is perhaps a better approach, visually, in terms of the context of the site.

It is acknowledged that there are many letters of objection and the Parish Council have listed many reasons why the proposal should not be accepted. Officers consider that the amended scheme have addressed some of those concerns.

However, the issue with this proposal is the fact that there is a strong Environment Agency objection to the proposal which after much discussion is unable to be overcome. The Local Planning Authority faced with such an objection and the fact that despite the proposal passing the sequential test, failing to meet both of the exception tests, (The NPPF 2021, para 159 makes it clear that both tests must be met), Officers feel unable to recommend approval contrary to this advice despite some of the other aspects of the proposal being considered acceptable.

In addition the security fencing is also a concern for several consultees from a visual perspective and as such, it too must be a reason for the recommendation to refuse the application.

***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**

### Relevant policy framework

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 Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

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.**

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT11 Strategic approach to the Historic environment

SPT12 Strategic approach to the natural environment

SPT13 Strategic infrastructure measures to deliver the spatial strategy

SPT14 European Protected Sites – mitigation of recreational impacts from development

TTV1 Prioritising growth through a hierarchy of sustainable settlements

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

DEV1 Protecting health and amenity

DEV2 Air, water, soil, noise, land and light

DEV3 Sport and recreation

DEV4 Playing pitches

DEV20 Place shaping and the quality of the built environment

DEV21 Development affecting the historic environment

DEV23 Landscape character

DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV27 Green and play spaces  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts.

**Neighbourhood Plan:**

Dartington Neighbourhood Plan has reached regulation 7 stage in the process for producing a Neighbourhood Plan. There are no policies currently formulated and as such the Plan at this stage has no weight in the planning decision.

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 2, 11, 47, 93, 95, 98, 112, 120, 126, 131, 134, 153, 157, 159, 161 – 165, 167, 180, 182, 197, 202 and guidance in Planning Practice Guidance (PPG).

**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.