



Newsletter

Words from The Chair

To quote the management of the King of Prussia pub: 'We cannot go on running a business where every time it rains we get flooded even when it is low tide!' The present situation for everyone in Kingsbridge town centre is, as they say, 'totally unacceptable'.

Nor is the standalone solution being proposed by South West Water, as you can read on this page, acceptable. Neither will the company face any of the 'unlimited fines' once promised by the government should the Environment Agency agree to their proposal.

Fortunately more encouraging environmental news is to be found on page 5, where our Environment Lead Martin Fodder offers a fascinating introduction to the ecological and environmental importance of the South Hams saltmarshes and the work of the Saltmarsh Project.

Similarly Society member and co-coordinator of the South Hams Tree Wardens Dr Thelma Rumsey alerts us to improvements the District Council should be making to their newly published Plan to ensure the health of our trees on page 8.

Freeport concerns, found on page 16, still remain. Despite some excellent work by councillors on the Task & Finish Group and efforts by Cllr John Birch to ensure greater transparency, a recent lack of board meetings, the Deadlock procedure, and the injection of an additional sentence in to a National Planning Policy Framework paragraph could all potentially prove problematic.

Likewise with New Homes Bonus payments from central government predicted to contribute in the region of £700k to the District Council's projected net budget of £13.3m for 2024/25 it's perhaps no surprise that some in Follaton House seem so keen to find ways to continue concreting over our countryside even when, as we discuss on page 6, we have in total already built all the houses we were originally told we would require. It leaves us feeling 'we're just like a sitting duck' being targeted by the developmental blunderbuss.

Brief details of some of the more recent letters of representation submitted by the Society, objecting to various planning applications, are to be found on page 11, while each can be read in full on our new website.

Other planning matters find us discussing how enforcement failings too often enable developers to simply with impunity ignore inconvenient planning conditions, while later in this issue we tell of the never ending saga of Butterford and the Society's ongoing struggle to ensure the Council's enforcement team actually keeps to its commitments.

We also we examine a conflict that has arisen between a Planning Inspector and South Hams District Council in their reading and interpretation of the General Permitted Development Orders. Attempting to obtain resolution we have appealed to the head of the Planning Inspectorate. His ruling is awaited.

And the Council's Assistant Director Planning says letting us know whether case officers have actually made a site visit before writing their reports 'could serve to detract' from any assessment of that report. Read about it on page 14 and see if you can follow the logic. Not sure that we can!

Elsewhere Secretary and Archivist Nicola Fox tells on page 9 of the North Hams and South Hams, how only the South survives, and reminds us all that even 50 years ago concern was being expressed about the dangers of concentrating power in the hands of larger and more distant organisations. The Devon Devolution Deal currently being proposed on page 15 could well prove a case in point.

Society Events Lead Cathy Koo expresses her frustrations about both events and non-events on page 7, offering an impassioned plea for assistance in several areas, from taking the Society's roadshow out for the forthcoming summer season to finding speakers for future Crabshell Conversations.

Finally all the Committee wish you a very happy New Year, recommending on page 19 some resolutions first suggested during Lockdown by Nigel Mortimer. •

Kingsbridge sewage spills scandal stinks



Bridge Street, Kingsbridge, in flood on 28 October

Towards the end of last year, in the six weeks between 28 October and 10 December, Kingsbridge town centre found itself flooded by a combination of foul sewage, tidal waters and fluvial and urban drainage.

Bridge Street, Mill Street and main town car park were all impacted with a frequency not seen before.

The two initial events, on the evenings of 28 and 29 October, corresponded with spring tides, the first preceded by 18.4mm of rainfall and the second by 10.7mm, when the peak tide coincided with heavy rain.

On both occasions the water level in the Dodbrooke (Kingsbridge North River), the primary factor influencing fluvial and urban drainage flooding in the town, was low but rising. Consequently the waters were at least free of sewage.

However on 2 November, four days after the peak spring tide, 32.5mm of rainfall preceded high tide. During the morning the Dodbrooke was running high, spiking twice. And while both Mill Street and Bridge Street were under water the quay area was unaffected, meaning that day's flooding was purely a consequence of the fluvial and urban drainage infrastructure not having sufficient capacity to cope.

A fortnight later, on 16 November, after 26mm of rainfall had

caused the level of the Dodbrooke to spike, further flooding began two hours before high tide, resulting in tidal waters mixing with fluvial and urban drainage containing considerable sediment.

The penultimate event on 9 December showed the Dodbrooke spiking at 6:30am. Once again the flood waters combined fluvial and urban drainage containing considerable sediment along with foul sewage. Images from the King of Prussia show a combined sewer discharging from manholes in Bridge Street, while foul water was also seen discharging from a combined sewer at the Quay Car Park close to the Quay Court Care Home.

And finally on 10 December, following a short spell of heavy rain between 8:50am and 9:30am, further flooding occurred with foul water seen discharging from manholes. On this occasion the area outside the Hermitage was peppered with human faeces while the combined sewer at the Quay Car Park was still discharging for a second day.

Unquestionably foul water discharges to this extent should be seen for what they are, namely a public health hazard. And, although it is not always visibly obvious, it is probable that after every fluvial flood event triggered by heavy rainfall the combined sewers also overflow, adding to

...Continued page 2

Newsletter / 2

the risk.

To give but one example for which recent evidence does exist, around midday on 8 December a member of the public in Mill Street recorded a video clip that shows foul water rising out of the Squeezebelly Lane combined sewer connection manhole. This may have been due to the Western Backway Leat overflowing onto the footpath and into the combined sewer line which has old open lattice manhole covers.

Developments such as Applegate Park and Scholars Walk are potential contributors to the problem. Waters from new development alter the rainfall runoff characteristics through higher volumes of urban runoff, controlled at a calculated green field runoff rate. This green field runoff is diverted directly in to the Dodbrooke, with flows extended for hours after rainfall has ended, ignoring features like hedgerows that previously modified rainfall drainage routes, or whether any or all of that precipitation actually used the Dodbrooke route in the first place.

Each development takes a slice of the capacity of the culvert from the catchment area and adds to levels in the Dodbrooke. Rainfall falling on Belle Hill, Duncombe Street and upper Fore Street enters the culvert along with the surface water drainage from the Windsor Close and Church Close developments. By the time the culvert reaches the Bridge Street and Mill Street area, the culvert has no capacity left and the roads lose their drainage.

In addition Applegate's sewage was added to the end of the areas combined sewer line, which also takes the areas road drainage, and in turn has apparently created sewage spills next to the Dodbrooke.

As a consequence, when asked whether the pumping station on the Embankment foreshore has sufficient capacity to keep the foul water network empty, the

...Kingsbridge sewage spills scandal



The Quay, by Kingsbridge bus station, in flood on 29 October

Complaints Customer Manager admitted:

I have queried this question directly to our Sewage Pumping Station Manager who has advised that the Sewage Pumping Station takes combined flows of both foul and surface water. In very wet weather it is very difficult to keep the network empty, especially now we are seeing heavier prolonged downpours and added urban sprawl.

In other words South West Water accept their existing infrastructure is incapable of coping with a combination of both climate change and such recent housing developments as Applegate Park, one of the contributors to the 'added urban sprawl'.

However the company can hardly be held completely responsible for the problems Kingsbridge now faces. When Applegate Park was first proposed in October 2016 documentation submitted by Nijhuis H20K noted that:

A high level review has been undertaken by South West Water and following correspondence dated 10 October 2016, it has been indicated that the existing public sewerage network currently does not have sufficient capacity to accommodate the proposal... therefore it is anticipated that the required drainage evaluation and subsequent improvement works would be secured by a suitably worded planning condition.

Yet South Hams District Council included no such condition in the Decision Notice approving the application – a noticeable omission.

Then subsequently in 2019 SHDC approved both a variation order for the site and an application accompanied by a submitted drawing dated 18 November. That drawing carried two warn-

ings, namely:

Off-site surface water requisition alternative route to be confirmed as viable by SWW

and:

Further survey to SWW public sewer required to confirm Surface water & Foul drainage outfall connection viability and overall drainage strategy. Existing invert level and pipe size to be confirmed to inform proposed drainage strategy.

The Decision Notice approving this application included amongst its conditions:

18. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems.

21. Prior to the commencement of development details of suitable and reliable measures to ensure that all contaminants from all potential sources are contained within the site to prevent water quality impacts on the Salcombe to Kingsbridge Estuary SSSI shall be submitted to and approved in writing by the Local Planning Authority, including details of measures to prevent overloading of the foul drainage system, to control the risk of unplanned contamination of local watercourses and measures to ensure that there is no run-off from the site that is allowed to enter the foul drainage system.. Development shall take place in accordance with the approved details and the measures shall be retained and maintained in perpetuity.

Some time later 0110/20/ARC was approved, to which a drawing dated 26 March 2020 was attached, from which the two warnings had been removed. Crucially there is no record on the SHDC website to show that South West Water had been consulted or whether any of the survey work was actually done.

If neither of those conditions were satisfied then both South Hams District Council and Devon County Council must bear at least some of the responsibility for the health hazards Kingsbridge residents currently face.

It is a problem that needs to be urgently resolved. But according to South West Water's Complaints Customer Manager, the preferred option originally proposed in the Kingsbridge Integrated Urban Drainage Model (IUDM) and Flood Analysis report:

was too far out of budget and insufficient Government funding would be available to undertake this robust collaborative scheme to further protect the town from the combination of sewer, fluvial and tidal flooding.

This leaves South West Water with having to promote a standalone scheme to reduce the risks of sewer flooding in the lower part of the town.

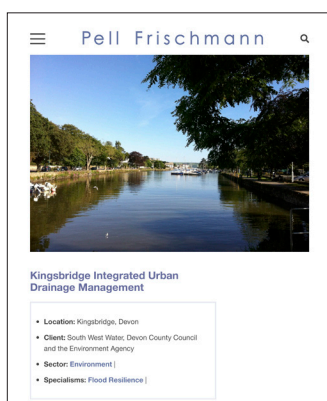
This is likely to involve additional pumping storm overflow discharges during periods of high tides and/or high levels into the watercourse or estuary.

In other words, the only affordable solution South West Water is prepared to offer in an attempt to reduce polluting the streets of Kingsbridge is to transform the Estuary in to an open sewer!

Those responsible for this scandal should be held accountable.

Included in their number could be the successive governments who have demanded the construction of ever more housing without requiring the necessary infrastructure to also be put in place, water companies who have prioritised shareholder returns over community needs, planners who have failed to check the details and properly examine the cumulative impact of the developments they approve, and our elected representatives who have failed to stand up to prevent such failings occurring.

And finally, in the early hours of New Years Eve, flooding occurred yet again. Outside the King of Prussia pollution was once more seen escaping from the combined sewer manhole. ●



Society appeals to Planning Inspector

On 11 December the Society wrote to Paul Morrison, the Chief Executive of the Planning Inspectorate. Three days later we were informed by his Executive Support and Governance Officer 'a full response to your queries will be issued in due course'.

We had contacted Mr Morrison because we were concerned that there appeared to be a conflict between his Inspector and South Hams District Council in their reading and interpretation of the General Permitted Development Orders.

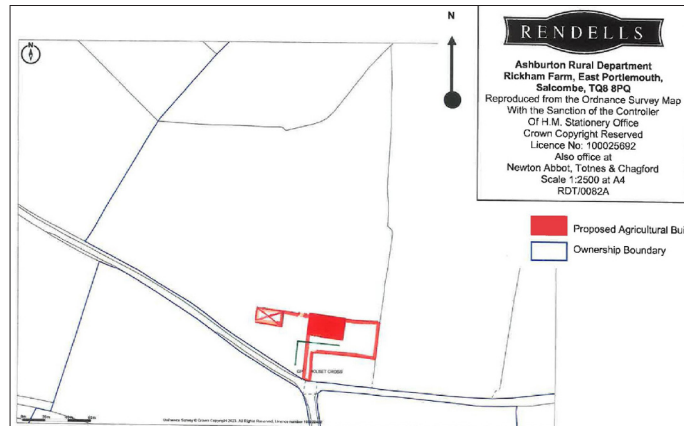
And, as we explained, for the integrity of the planning system to be maintained a difference of opinion this fundamental clearly required resolution, so we asked if he could kindly provide clarification.

We had originally written to the Council's Head of Development Management to express our concern with the determination of an application to determine whether prior approval was required for an agricultural storage building for storing grain, seed and fertilisers on land at Rickham Farm, East Portlemouth:

In the Officer report reference is made to the letter of representation submitted by the Society. I quote:

The Society believes this proposed development fails to comply with the description of permitted development as set out by Schedule 2, Part 6, Class A of the GPDO.

The proposal does not include a suitable plan of the whole site. However the area of the proposed barn is recorded as 32m x 18.28m, or just under 585m².



The submitted site plan showing the area of hardstanding

Although not mentioned by the applicant, a new track and hardstanding will clearly be required – the site plan leads us to that conclusion.

We have measured the area from the site plan and we consider the total area of the development will be in excess of 1800m².

To support the Society's opinion we refer the local planning authority to the Planning Inspectorate appeal Ref: APP/X1925/W/20/3256050. I attach a copy of that appeal.

In that appeal the Planning inspector had confirmed the view of North Hertfordshire District Council, concluding:

For me, this is explicit that permitted development can be both a building and works and sufficiently implicit, based on the fact it is defined as to what can make up the 1000 square metres, that it should be concerned with a sum total of a given proposal...

The ground area of the building proposed as part of this submission for prior approval would fall

well below the 1000 square metre allowance. However, the scheme also includes the provision of a three metre wide access track of substantial length. Such that it would take the combined total over the permitted 1000 square metres. The provision of an access track could be described as works for the purposes of paragraph D.1(2)(a) and indeed an engineering operation for the purposes of Class A.

However the Council's Head of Development Management disagreed, telling us:

My and my colleagues reading and interpretation of the GPDO differs from the planning inspector, and we do not consider that associated hardstanding is included within the 1000m² limitation for the following reasons.

Those reasons included:

Class A expressly distinguishes between (a) works and (b) excavation or engineering operations.

The ground area criterion at A.1(e)(i) is expressly referable to "any works or structure (other than a fence) for accommodating

livestock or any plant or machinery arising from engineering operations".

An access track is not "any works or structure (other than a fence) for accommodating livestock", nor is it "any plant or machinery arising from engineering operations". It follows that the ground area criterion does not apply to an access track and therefore the paragraph D.1(2)(a) formula is not engaged.

Given the implications for those wanting to construct agricultural buildings in otherwise open countryside, some of which invariably eventually end up being exploited for residential or other purposes, obtaining a definitive ruling is important to try and ensure, as often as possible, that a full planning application is submitted, a genuine agricultural need can be shown to exist, and that conditions can be imposed to require the removal of the building should it no longer be required for agricultural purposes.

We will hopefully hear back from the Planning Inspectorate in the coming weeks.

However, even if the Council's Head of Development Management is correct in his interpretation, that still does not mean the agricultural storage building at Rickham Farm will necessarily comply with the terms of the GPDO. He told the Society:

With this specific case we have re-looked at the proposal and are considering whether the proposed development is allowed under Part 6, given the application site is within 25 metres of a classified highway.

A full planning application may yet be forthcoming. •

Some developments should simply not be 'Permitted'

Back in July the Government published a consultation that included proposals on Permitted Development Rights that would allow rural buildings in National Parks and AONBs to be converted into dwellings without the need for planning permission.

In responding the Society made it very clear that we were strongly opposed to the idea. You can read what we had to say here. However we have since been informed by the Campaign for National Parks that the Government has refused to rule such changes out.

As a consequence the Society has written to both our MPs, Sir Gary Streeter and Anthony Mangnall as follows:

As you may be aware the Society submitted a response to your government's consultation on changes to permitted development rights. We were particularly concerned about proposals that could allow barns, stables and other buildings in both the South Devon AONB (South Devon National Landscape) and other protected landscapes to be converted into residential dwellings without any requirement for planning consent.

I attach a copy of our submission for reference.

We have now been informed that those proposed changes are to be implemented.

As I know you are aware our landscape remains under considerable pressure from often inappropriate development in far from sustainable locations. Already more than

twice the number of dwellings identified in our Joint Local Plan as being necessary to be delivered by 2034 have either been consented or built, even though our existing infrastructure is incapable of coping. Allowing yet more dwellings in isolated rural areas can only exacerbate the problem. And given the prices houses in such locations can demand it is hard to believe there will not be an explosion in the number of buildings being converted. None will be affordable to the vast majority of local residents, and none will do anything to help resolve our appalling lack of genuinely affordable housing.

Relaxing the existing rules in protected landscapes benefits nobody, save for a very small number of landowners, and

permitting uncontrolled development arguably directly conflicts with the now legal requirement that we all "must seek to further the purpose of conserving and enhancing the natural beauty" of those landscapes.

If you have any influence on the matter the Society would appreciate your doing everything in your power to ensure those changes proposed in protected landscapes do not take place.

Around the country others are doing the same. Please add your voice. You can email Anthony at anthony.mangnall.mp@parliament.uk and Sir Gary at mail@garystreeter.co.uk and help to ensure the South Devon National Landscape will remain an area of outstanding natural beauty. •

Letting consent become unconditional

In the words of Paragraph 55 of the National Planning Policy Framework: 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.'

And, as the Government website goes on to explain, 'when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.'

Similarly paragraph 14 of Government Circular 11/95: Use of conditions in planning permission makes it clear that 'the Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants

Consequently, the Circular goes on to stress, conditions need to be:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

This list of requirements is set out on a statutory basis. Yet all too often, when those conditions are breached, enforcement officers decide it would be unreasonable or not in the public interest to take action.

So why, you might ask, would the Council include planning conditions to enable a planning application to be considered acceptable if enforcement officers then conclude, when an often-intentional breach is confirmed, that no action need be taken?

Such inactivity might be thought to bring the Council in to disrepute.

It was a question the Society's Planning Lead Les Pengelly posed at the meeting of the District Council's Executive Committee on 30 November. And it was a point picked up later in the day by the Council's Executive Lead for the Environment, Cllr John McKay, when the Planning Enforcement Plan Task and Finish Group Review was being discussed.

'If it has been through a planning process and a condition has been applied then surely it is never not expedient to enforce that?', he argued, to which the Coun-

Local Democracy and Governance

[Back to Local Democracy and Governance policies](#) ►

8a. Improve the Planning Service

Reason: While there have been recent changes, it remains an under resourced service with too few planning officers and too many levels of management. The prioritisation of cases could be greatly improved as could the use of technology. The use of 'independent' planning officers to work on large applications and who are indirectly funded by the applicant should cease.

8b. Overhaul the Enforcement Service

Reason: This service is not effective. It needs more officers, better systems, better prioritisation, better categorisation of cases, better communication with members, better alerting and deadlines. It also needs to prioritise cases involving environmental damage. There needs to be greater involvement of elected members and a delegation scheme that provides the opportunity for cases to be called-in for consideration by a panel of members.

As the Liberal Democrat election manifesto made clear, the enforcement service is not effective

cil's Assistant Director Planning responded: 'When planning officers are dealing with planning applications and the imposition of conditions they do need to make sure they have appropriately considered those relevant to use, otherwise it wouldn't be appropriate for those planning conditions to go on to the development.'

And that's a statement with which few would disagree.

But he then went on to add the caveat:

When we move over in to the implementation or the ongoing operation of a development where there are controls or planning conditions we do need, from an enforcement perspective, to look at that in more detail and it can sometimes be the case when we are considering whether it is expedient or in the public interest for some elements of the breaches to be enforced against, that is a judgement that has to be made at that point in time... that doesn't necessarily stop it having been an appropriate control to put on the planning application, but we do need that review to take place.

However unless circumstances have noticeably changed, and given that the Government Circular emphasises a planning condition can only be imposed if it is both necessary and relevant to enable the development to be permitted, conditions should not be open to review at a later date.

So unsurprisingly Cllr McKay was far from fully satisfied with the answer he received.

'If it had gone to the Committee',

he said, 'I would have expected an enforcement process to follow if the condition was not complied with because it has been through a fairly rigorous process and I did wonder whether you had a protocol in place with regard to that?'

Leaving aside that many would anticipate the application going through a fairly rigorous process when being considered by the case officer, long before it ever reached the Development Management Committee, the Council's Assistant Director Planning took the view:

Sometimes we do need to look at those things and consider is it in the public interest, is it expedient. And that is the process the enforcement officers do with the support of their lead manager. But that is the flexibility we do need to have and it's a different set of tests that you're looking at when taking enforcement action in relation to the imposition of conditions.

Again his answer begs the question as to why the tests should differ. Either the condition was necessary for the development to proceed or else it should not have been imposed in the first place. Nor, as Cllr McKay was to discover, is there a formal process in place to allow members to challenge a decision to cease enforcement action on the grounds of expediency.

Inevitably there will sometimes be cases where it is either expedient or not in the public interest to pursue enforcement action for minor infractions. But as readers of this Newsletter will know,

many major breaches are also allowed to go unpunished.

In their manifesto at the recent local elections the Liberal Democrats acknowledged that 'over recent years the planning and enforcement function of the Council has left a lot to be desired', adding 'this service is not effective', before going on to state: 'There needs to be greater involvement of elected members and a delegation scheme that provides the opportunity for cases to be called-in for consideration by a panel of members.'

The Liberal Democrats have now been in control of the District Council for almost eight months. Yet enforcement still leaves much to be desired and there is no sign of the promised delegation scheme alluded to by Cllr McKay.

As a result, as Cllr Lee Bonham told his colleagues on the Executive:

What I've seen over the past few months is quite a lot of public concern about enforcement not being implemented quickly or not being seen to be implemented effectively, which gives the impression rightly or wrongly to members of the public that developers are gaming the system and building something and there's not a quick action taken.

Any such perception needs to change. If planning conditions are imposed, consent is purely conditional, and the conditions are there for a purpose.

It is time those conditions were enforced, promptly, rigorously and effectively. •

Some salty stuff on the Dart

Marshland is not a prominent – let alone the predominant – feature of the South Hams coast.

The word saltmarsh probably conjures up images of Kent, Suffolk or Norfolk in your mind's eye. The watercourses of the South Hams are characterised by rias, drowned valleys which have relatively steep sides when contrasted with the much flatter estuaries of the South East of England.

But there are saltmarshes in the South Hams. They are narrow compared those found further east, they may be less conspicuous but they are fascinating and important.

Saltmarshes are important places for wading birds to breed, spend the winter and stop off during migration.

Apparently in non tropical areas saltmarshes store carbon at a greater rate and gather more carbon per unit area below ground than forests on land. By absorbing tidal and wave energy they help prevent flooding.

Saltmarshes regulate water quality by absorbing excess phosphates and nitrates in river water as well as salt from the incoming tides.

Now it is important to stress that the best thing for most of us to do with a saltmarsh is to respect its peculiar and particular sensitivities and leave it to its own devices. Humans in boats (especially powered ones) should be mindful of the adverse effect that their presence may have on the natural fauna and flora.

But the resources I mention in this short piece will enable you to learn, enjoy and appreciate this lesser known phenomenon and perhaps tempt you to venture and see it, safely and respectfully.

I introduce you to the work of the Saltmarsh Project.

The place to start could be the website of the South Devon National Landscape. What is that you may ask. It is the new name (since 22nd November) for the South Devon Area of Natural Beauty¹. But this will only whet your appetite for more so I suggest you might go straight to <https://bioregion.org.uk/>.

This is the website of the Bioregional Learning Centre and at <https://bioregion.org.uk/project/thesaltmarshproject/> you will find a range of resources concerned with the Saltmarsh Project.

<https://www.facebook.com/SouthHamsSociety>



The Fleet Mill seawall as seen from the Marsh

The aim of the project is to restore, conserve and enhance the health of the Dart's saltmarshes to their peak environmental and ecosystem services potential; in particular their biodiversity and carbon sequestration.

The starting point is a survey of the saltmarshes to identify the necessary conservation management prescriptions.

Alongside this the project aims to raise awareness of the wider values, interests and sensitivities of saltmarshes; as well as exploring how local communities might be actively involved and engaged in their conservation and care, and that of other estuarine ecosystems.

I would strongly recommend watching the recording of Nigel

Mortimer's presentation on the Dart Estuary's saltmarshes given back in March of this year. You can click through <https://bioregion.org.uk/learning-centre/>, go to the second bullet point under "The library" or direct to <https://www.youtube.com/watch?v=PuQ6iJEgPUc>. Good photographs, excellent diagrams and an entertaining commentary.

I promise you won't look at the Dart in quite the same way again!

The other happening in relation to the Dart that I want to draw your attention to is the work of the Friends of the Dart group. The group was showcased at the Rivers Assembly (see April's newsletter. Read all about their work at <https://www.friendsofthedart.org/> and in particular



A Common Sandpiper (top) and some saltmarsh plants (bottom) – all photos © South Devon National Landscape Unit



how they have now submitted four Bathing Water Applications for the River Dart, they say that these applications are the most supported ever seen by the receiving agency, DEFRA.

If Bathing Water Designation is achieved, spills of untreated sewage will have to be reduced to 1-2 per year from each of the combined sewage overflows at the designated sites and South West Water will therefore be required to prioritise their budget allocation and work to upgrade infrastructure at the sites. The results of the applications will be known in March of next year.

Lest the cockles of your environmental heart are getting too warmed by what you have read so far in this article I am afraid I have to end on in a not so optimistic vein.

In my article in January's edition of this newsletter I have referred you to the way that the regulation of our water industry is rooted in EU derived legislation. But it seems that is about to change.

The *Guardian* reports that the government will be using its own, as yet undisclosed methodology to assess river health and that activists say this may make it harder to compare the state of the country's rivers against those in the EU, and will leave the public in the dark over pollution from sewage and agriculture. <https://www.theguardian.com/environment/2023/oct/27/england-to-diverge-from-eu-water-monitoring-standards>.

It may be suggested that until we know more about the methodology the government intends to use instead of the EU derived framework it is premature to complain about this development. But the omens are not good.

As the *Guardian* points out the Government has already (since 2016) reduced the frequency of testing water quality from annually to just every three years. Toxic chemicals which the EU has proscribed since Brexit are permitted to be used in the UK <https://www.theguardian.com/environment/2023/sep/15/toxic-chemicals-banned-by-eu-since-brex-it-still-in-use-in-uk> and although the Government eventually backed down on the proposal there was an attempt to disapply nutrient neutrality rules derived from the EU which regulate new housing developments in sensitive areas. •

<https://SouthHamsSociety.org>

‘We’re just like a sitting duck’

According to key indicator 11a in Annex 2 of the Plymouth and South West Devon Joint Local Plan the total number of homes that would need to be ‘consented and built (including brownfield and windfall)’ in the TTV Policy Area of the South Hams between 2014 and 2034 was 4,500.

That target has already been achieved. And additional consents are in place for roughly that number again.

Of that target of 4,500 the JLP projected 550 would be constructed in the ‘Sustainable Villages’ of the South Hams and West Devon. But to date only 156 as yet have been delivered. So even though the overall JLP target for the South Hams has already been exceeded, officers decided to do as paragraph 11.32 of the Supplementary Planning Document suggests and ‘take measures to address shortfalls if they arise.’ Those measures, as the SPD makes clear, can ‘involve the LPA... supporting acceptable developer-led planning applications.’

As a result, on 18 October, South Hams District Council’s Development Management Committee found themselves being asked to approve the officer recommendation of an ‘outline application with some matters reserved for residential development & associated access’ on a green field site to the east of the village of East Allington.

Previously, when it first came forward, this application had sought consent to construct up to 35 dwellings on the site. But because of various concerns, not least the potential landscape and heritage impacts, the application description was subsequently amended to remove any reference to the number of dwellings, with the indicative layout also being withdrawn from consideration.

Instead officers now wished members to merely agree to an indeterminate number of houses to be built on the site.

In the JLP an indicative figure of 30 new dwellings is given as being appropriate in East Allington, and there is an existing consent for the construction of five houses on a plot immediately to the north. However the implications of that consent were not factors members could consider. As Phil Baker, principal planning officer with the JLP Team, explained:

Upon completion the scheme can be counted, but at consent stage it won’t be counted against the indicative housing figure for East Allington. As a colleague of mine



once said you can’t live in a planning consent, so we only count it against the figure once it’s been completed.

However that begs the question. Although just 156 of the required 550 dwellings in the Sustainable Villages have to date been consented and constructed, what number have been given consent but are still to be built? Cllr Jacqi Hodgson was quick to realise:

It really worries me this policy because it’s got a huge loophole in it. What we could end up with, say over a period of five years, is the cumulative impact of multiple applications that we are not in a position to constrain or refuse because nobody has actually built out. I see no reason why we shouldn’t feel comfortable constraining any future applications within that cumulative figure until something starts getting built out, otherwise we’re just like a sitting duck. It means it’s a free-for-all.

And Cllr Hodgson is of course correct. The policy has meant that at least twice as many new dwellings will be built in the South Hams between 2014 and 2034 as the Joint Local Plan originally thought necessary. Yet still we remain no closer to resolving our housing crisis. Far too few genuinely affordable houses are being built, while housebuilders make no effort to increase affordability, least of all while house prices have ceased to rise.

As recently as the end of October Anthony Codling, managing director for equity research at RBC Capital Markets was quoted as saying:

UK housebuilders are slowing the rate at which they build homes to protect house prices. The number of new build homes for sale and the number of sites coming soon is

falling as housebuilders slow build to protect price.

His comments echo the findings of the 2018 Letwin Review, which looked in detail at how developers deliberately build slowly to control the balance of supply and demand rather than bring down house prices in the area.

Consequently it’s noticeable that in recent months builders Berkeley, Bellway, Taylor Wimpey and Barratt Developments are just a few of those announcing cut-backs, causing Aynsley Lammin, a building analyst at the banking and wealth management group Investec, to suggest the total number of UK homes completed in 2023 could be down by 25% on last year’s figure.

The inevitable consequence here in the South Hams of builders cutting back construction while our Council continues to give out consents until completion targets have been reached can only be that we end up concreting over far more of our countryside than is reasonably necessary, to the detriment of our environment, our economy and our quality of life.

We will also end up with more developments such as that proposed for East Allington despite an objector from the village telling members:

Our village is not sustainable as witnessed by an overcrowded school, failing shop, lack of any employment options and its rural and isolated location, at least 20 minutes from its nearest town Kingsbridge. We have already lost our allotments and houses in the village do not sell well, staying on the market for years, not months – a LiveWest house in Lister Way has been empty for 12 months.

Yet in his apparent enthusiasm to see the application approved principal planning officer Phil Baker was quick to suggest to members:

One thing that is worth considering is that in and around East Allington you’ve got the likes of Torr Quarry, access to Kingsbridge and other local employment centres. There will be people already working in those locations that may well benefit from living in closer proximity in East Allington so there may well be associated benefits to people moving in to this area.

Were that to be the case, given that there is clearly no shortage of available housing in the village and LiveWest, a provider of affordable housing, has had a property standing empty for over a year, were there people wanting to move to East Allington to be closer to their place of employment, logically they would already have done so.

Nonetheless, the application was approved, despite there being little conclusive evidence of any housing need in East Allington. Plan policies simply gave members little choice. However unless the developer is prepared to accept a lower return the apparent lack of demand for housing in the village may make any scheme financially unviable. More likely the LPA will end up being asked to forgo any affordable housing requirement to ensure ‘viability’.

But if development does go ahead, and even though SPD 2.4c emphasises ‘the plan actively discourages new development in locations which are remote from services, facilities and jobs’, the new residents will inevitably be car dependent. So much for the climate emergency.

Fortunately Paragraph 7.28 of the JLP ensures: ‘There will be a full review of the JLP every five years from adoption which is anticipated to be during 2017/18. The first review therefore is likely to be in 2022/23.’

However the JLP was only adopted in March 2019. So that review should now be taking place this year. When it does it must be possible to ascertain the percentage of consents have actually been built out to completion as well as the average length of time taken from consent to completion, and to then calculate how many (if any) further consents are needed to ensure all Plan targets here in the South Hams will be met.

‘Otherwise’, in the words of Cllr Hodgson, ‘we’re just like a sitting duck.’ •

Cathy Koo on Events and Non Events

The winter months are meagre times 'Events' wise (especially as the decision was taken to hibernate for January and February) so to plump up my copy for this newsletter I'm also going to give a snapshot overview of what is involved in being a working member of the SHS in the hope that a few more members will come to join our happy band of workers. Even if it's just to take one of several jobs off the committee's hands - because it's the familiar cry of small charities everywhere that there are too few people holding the reins and this is just as true with us.

So....here goes... here's where we need assistance – Media and Social Media (there's a difference), Events, Planning, General Factoring - all have gaping holes where we could do with help. Events are definitely the best bag.....what's not to like about doing the 'South Hams Season' - taking the SHS roadshow out to all the summer shows, signing up new members, explaining to anyone who will listen what the SHS is all about and why it matters. Social Media on the other hand is not for the faint hearted..... while Facebook is great for raising awarenessdealing with the trolls is less easy. Really selling it here...

In truth we all double up on jobs... all mucking in to help out where needed.

Given this state of affairs and with a chill wind blowing.... a decision had to be made - where should we, as a Society, committed to protecting and enhancing

the South Devon AONB (now the South Devon National Landscape), concentrate our efforts to maximum advantage?

For many years we had been running events which other, newer, younger groups are now doing better and more effectively than we were - environmental activities such as Beach Cleans, Bat and Bird watching, Farm walks – all of which fit worthily into the SHS remit but which truthfully are being done better by a plethora of other groups. And as to stands we no longer have the manpower to do these properly.

So it became clear that we should concentrate our efforts on what was achievable rather than desirable. That's not to say the Society wouldn't love to offer all the above, but it's just not possible at the moment - keeping it real, means keeping it simple.

We have however introduced a series of 'Crabshell Conversations', beginning last Spring and continuing in the autumn, when speakers addressed us on a wide range of topics, ranging from Community Land Trusts to Going Green. Held in the upstairs restaurant of the Crabshell Inn in Kingsbridge we sadly had to postpone the final two of the five planned for the autumn to this coming Spring as the restaurant was suddenly closed for refurbishment. However we resume in March when Peter Sandover will talk to us about the importance of Neighbourhood Plans. Admission is free and all are welcome, so do try and join us.



Henry Dimbleby, MP Anthony Mangnall and Caroline Voaden

Before the local elections in May we also invited the leaders of both the Conservative and Liberal Democrat groups on the Council to answer our questions on their plans were they to be in control of the Council once the votes were counted, while in October the Society hosted former government food czar Henry Dimbleby, MP Anthony Mangnall and Caroline Voaden to discuss Food Security, Food Safety and the Implications for Agriculture.

We would really like to thank all our speakers who have made all our meetings such a success. And if you would like to address us, or know of someone from whom you think we should hear, do please let us know.

However, rather than try and fail, to overpromise and underdeliver - we have rightly or wrongly prioritised, more by necessity than intention, on dry-old-planning which still seems to be our USP.

Sigh. Planning is still the most pressing need and work of the SHS as it has been for many a year. It would be great if this were not so but the reality is that planning applications hitting

the LPA are relentless. Of course many are for routine matters which have no bearing on the AONB but others, if unmonitored and unchallenged, would be disastrous for the countryside. As one member put it : "Conservation is all about planning"....

So rightly or wrongly, planning is still the meat and potatoes of the SHS; responding to the planning applications and holding the planning department of the local council to account is much of what the SHS does.

So successful are the SHS planning team that the former Head of SHDC wanted to know how the SHS did it? What was the secret weapon? That would be telling...

The planning work is time-consuming and done with great tenacity by a very few committed and eagle-eyed members, ably assisted by certain dedicated members of the local community (they know who they are).

And as I was told recently by the Chair of the Development Management Committee who regularly attends SHS events: 'If the SHS didn't exist we'd have to invent it.' Quite.

So at the end of the year here's a shout out to all my fellow colleagues on the committee, the unsung heroes who keep the SHS chugging along year after year. To Les who terrier-like in his tenacity keeps a close watch over the council, to Nicola the longest serving member of the committee, to Debbie who keeps the accounts meticulous, to Kate who manages the membership lists, to Peter who with his wife generously hosts meetings and delicious refreshments at his wonderful Widdicombe House and worries about trees, to Martin our environmental authority and to Richard our Chair.

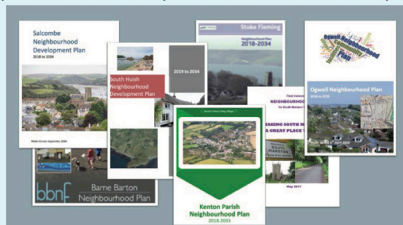
So my parting shot to you all this Christmas is to ask yet again for more members to step forward for service...

And with that I'll wish you a very peaceful Christmas and look forward to seeing you at an SHS event in 2024 ! •



Thursday, March 7, 12:00pm

Upstairs Restaurant, Crabshell Inn, Embankment Road, Kingsbridge, TQ7 1JZ



Neighbourhood Plans

The need, the process and the benefits

Architect and community engagement consultant Peter Sandover helped the Design Council produce their original guidance to communities and has since worked with many rural and urban communities, including those in both Salcombe and Dartmouth, to produce their own.

The meeting starts at noon, lasts about 30mins with questions to follow. Admission is free and all are welcome, members and non-members alike.

The Crabshell management are providing the venue to us free of charge so please do support them by staying for a drink and a bite to eat after the talk. If you would like to attend please email membership@southhamsociety.org to let us know you might be coming and also whether you think you will be able to join us for lunch.

Improvements needed to Council Plan for trees

On November 30, and following a ten-week public consultation, the SHDC executive renamed its proposed Corporate Strategy as the 'Council Plan for 2024-2028'.

No fewer than 1,200 residents viewed the consultation, and amongst those to respond was Dr Thelma Rumsey, Society member and co-coordinator of the South Hams Tree Wardens.

Focusing her submission on Section 4 - "Do you think that our ambitions and aims are right around Climate & Biodiversity ambitions?" she began by noting that the Council's initial intention was to increase 'tree planting in urban areas, extend and improve woodland and protect wildlife habitats'. However any increase in urban tree planting, she argued, would also require finance to be available for aftercare support for the newly planted trees, including funding for tree protection, fencing, mulching and watering for at least five years.

But much as she welcomed any initial action for tree planting in urban areas most of the South Hams still remains rural. Improving our woodlands and protecting wildlife habitats therefore requires a major effort from the Council to involve landowners, both large and small.


For example, a major omission from any proposal to increase the tree numbers necessary to meet the UK's climate targets is invariably the role hedgerows can play. Hedgerows, she pointed out, are the most unappreciated feature of the British landscape, and the management of this extraordinary asset for both tree cover, biodiversity and climate change mitigation, is appalling.

The annual flailing of what still



<https://www.facebook.com/SouthHamsSociety>

7



Our Key Partners and networks

- Sustainable South Hams
- Climate Experts Panel
- Community energy groups
- South Devon AONB

Our Primary Aims

1. Striving to achieve the necessary 12% per year reduction in eCO2 emissions across the South Hams with a 40% reduction in 4 years.
2. Target a 5.5% per year increase in biodiversity in the South Hams with a 20% increase in 4 years.
3. To form an adaption plan for the South Hams so there is a pathway to deal with the consequences of climate change.
4. To make the South Hams an exemplar for other local authority areas by showing what can be achieved.

Our Initial Actions

- Form a Climate & Biodiversity Experts' Advisory Panel.
- Implement Project Assessment tool to consider environmental and social impacts.
- Continue to fund Sustainable South Hams.
- Launch a thermal imaging camera lending scheme.
- Hold a Climate & Biodiversity Assembly.
- Promote the action taken across the South Hams to tackle the climate emergency – tell the story.
- Carry out feasibility studies on viable council car parks for solar canopies.
- Increase tree planting in urban areas, extend and improve our woodland and protect wildlife habitats.
- Set up a Councillor Environmental Fund to support community action.
- Work with a community energy group to increase availability of community owned energy within the District.
- Deliver schemes to reduce the impact of our ferry and harbour operations.

Climate & Biodiversity

remain of our hedgerows using tractors (which incidentally discharge huge amounts of CO2 into the atmosphere) suppresses the growth of millions of potential trees. Consequently, should not one of the Council's primary aims be to bring land agents and landowners together and ask them to agree that the flail could be lifted every 20-30 metres or so (a suitable potential tree being marked at these points)?

Were this to happen it would eventually then be possible to have a mature tree at regular intervals. Those trees are already well rooted and are suited to the soil, and so will grow to maturity and survive better than any planted whips. And were these trees to be left to grow then fewer new trees need to be planted

and maintained, an important consideration when the failure rate of newly planted whips can be as much as 50%.

More sympathetic flail use also offers other benefits. Having a proper hedgerow on field margins will massively increase biodiversity, providing creatures with wildlife corridors along which they can travel. But without hedgerows to shelter in, nest in and travel along wildlife cannot flourish. And without hedgerow improvement, together with woodland improvement (including copses), coupled with protecting wildlife habitats, the target 5.5% increase in biodiversity year-on-year is unlikely to be achieved.

In an ideal world, Dr Rumsey added as an aside, we could have a range of different sorts of hedgerows tailored to different species, especially the birds and bats that depend on them for navigation and food sources.

Another constraint on the Council achieving its objectives, she pointed out, is central government legislative restriction on safeguarding trees during the planning process. Consequently consideration needs to be given to those trees lacking the legal protection of either a TPO or TCA when applications are being determined.

In addition to Council planning officers, parish and town councils should also note whether there are any mature trees on site,

while it should be a priority to assess whether the application will threaten that tree as the site is being developed or once construction is concluded. This would then hopefully alert the Council's Tree Officer, who could then decide whether or not a TPO should be issued.

Regrettably everyone who works with trees knows that the existing legislation is totally out of date. But there is little chance of it being altered.

Finally there is also the question of the photovoltaic arrays that are springing up on agricultural land. Once again there may be mature trees on the site and, if there are, then due consideration needs also to be given to them when the application is being considered. If possible the electrical infrastructure should be placed sympathetically to allow the trees to survive.

Failure to maintain our mature trees, which are already doing their job of carbon capture and sequestration, and arguing that planting whips to replace them is the solution, is profoundly mistaken. It takes at least 10 years before newly planted trees capture or sequester any carbon.

Have we got this amount of time, she asks, or should we be better advised to improve the management of our existing resources?

And that, she declared, is what the Council's strategy should do. •

<https://SouthHamsSociety.org>

Nordmanns will keep repeating!

Chances are we have all bought a tree in December unless you have acquired a Chinese imposter! The Nordmann variety of live trees are probably the most suitable as they have a reputation of not dropping their tines early. Some may have thought of planting their own tree, possibly in a pot.

Single trees can be remarkably inexpensive and it is worth going on the web and searching 'hedge trees'. They are usually priced around £4.00 for a two to three foot specimen which, after five years or less of moderate care could save you in the order of £60, and be an interest in the meantime. A bit of pruning would keep it tidy and good-looking.

Not a bad time of year to be planting other trees. Acers are a favourite and look good with colour changes as the year progresses but, if you do think of buying, it is worth checking what its mature height will be. Acers, however, do not like much wind and we have certainly been experiencing enough recently, in fact, all autumn.

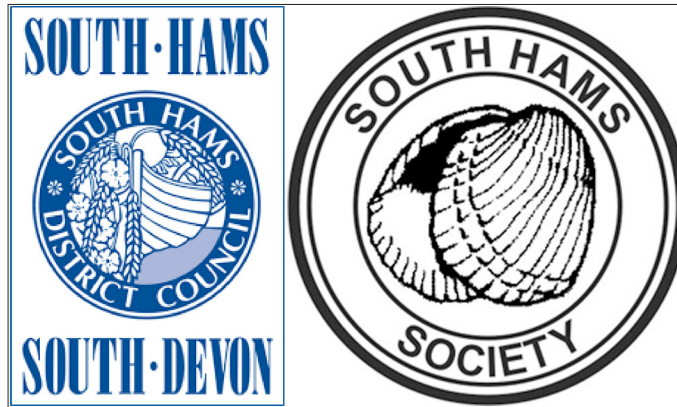
If you are looking for a tree to protect against wind there is one that stands out – the Alder (Alnus, not Elder!). It grows fast by tree standards and grows vertically despite the wind. The varieties normally available are the Glutinosa, the Cordata and the Italian.

Whilst not dramatic in appearance, they are, nonetheless, good looking, well shaped, trees and known for their catkins which appear in Spring. Their roots also fix nitrogen in the soil.



Nothing but Nordmanns!

The South Hams (and the North Hams)



The original logos for both the District Council and the Society

The name 'South Hams' is found in all sorts of organisations in our area as well as our own Society. There are groups, businesses and more general alliances, and of course it has been shared by the local district council since the 1970s.

However the name itself has much older roots, since the time when this area was settled by the Saxons who came here as immigrants from the 5th century onwards, and had effectively conquered Devon and its remaining Celtic inhabitants by the 7th century. 'Ham' is an Anglo-Saxon word meaning an enclosed or sheltered space, possibly a farmstead or peninsula. That derivation includes all the features of the South Hams, which is traditionally a rich agricultural area with its southerly location and particularly mild climate, sheltered by the bulk of Dartmoor to the north and surrounded by the sea on the south. At one time the cultivated agricultural lands on either side of Dartmoor were known as the North Hams and the South Hams. The use of the name 'North Hams' fell out of use, but the South Hams name has persisted.

There are 9th century charters relating to grants of land in the South Hams. One in particular made by King Ethelwulf of Wessex in 846, granted most of a substantial area stretching from the river Dart to the river Erme to himself 'om homme', in order that he could re-grant portions to his chosen subjects. ('Homme' in this case seems likely to have a similar meaning to 'ham', of meadowland). The exact boundaries of the South Hams have been much discussed over the centuries since, but they have always more or less mirrored this charter area, between the rivers to the east and west and the fringe of Dartmoor to the north.

Its agricultural nature has always been a common thread – John Leland, in his 16th century Itinerary, refers to it as 'the frutefullest part of all Devonshire'.

Moving on to our own Society, when it was formed in 1961 its area of interest was based on the historical South Hams, effectively the old Kingsbridge Rural and Urban District Council areas plus Salcombe. This included 26 local parishes, as follows: Aveton Gifford, Bigbury, Blackawton, Buckland-tout-Saints, Charleton, Chivelstone, Churchstow, East Allington, East Portlemouth, Kingsbridge & Dodbrooke, Kingston, Loddiswell, Malborough, Modbury, Ringmore, Salcombe, Sherford, Slapton, South Huish, South Milton, South Pool, Stoke Fleming, Stokenham, Thurlstone, West Alvington and Woodleigh. There were – and still are – other neighbouring societies who had their own particular interests. Co-operation and joint working was important, developing into the formation of the South Hams Amenity Federation in the 1970s.

The fledgling South Hams Society acquired its own logo, although this has now been superseded by the current version. It is not certain why the logo was chosen but it seems to show the two halves of a cockle shell. The cockle has different meanings in different cultures, but all revolve around the idea of change or new beginnings – and also persistence, which is very appropriate for an amenity society.

By 1973 plans for local government reorganisation were well advanced, and the Society minutes of the time show some concern about the proposed South Hams District Council. Parish councils would remain, but this would centralise the functions of the next tier of councils at

Totnes.

AGM 1973: Sir Clement Pleass, chairman: raised the effect of amenity societies of the new local government organisation. Covering a much larger area there was the danger that the new Council would not be able to devote as much time and care as local Councils closer to the villages, therefore greater work would be thrown on the shoulders of Societies such as ours and he asked members to remember that it would depend on them to bring to the notice of the Society anything which needed investigation.

Minutes 1.11.1973: Mr. Saunders felt that there would be a need for re-distribution of amenity areas after next April and that the name of the society might have to be changed. Mrs. Woods suggested a meeting between SHS and the new South Hams District Council.

AGM 1974: The Society's president commented on the possible effects of the local government reorganisation which took place in April 1974, and the concentration of power in the hands of larger and more distant organisations.

The South Hams District Council came into existence in April 1974, but its sphere of operation included far more land than the historical definition of the South Hams. It had been designed to align with other authority boundaries, reaching from Plymouth in the west to Torbay in the east and north to the edge of Dartmoor. Some of the parishes on the southern fringe of the moor were also included at a later date.

A Google search for SHDC will sometimes reveal confusion with South Holland District Council in Lincolnshire, or occasionally Southampton. The name of the South Hams is still not widely known, even today when it is no longer as isolated and rural as it once was. The Council has tried to retain its rural links in some ways, and the logo in use for many years combines references to the local farming and fishing heritage. (It can also be seen on the Council Chairman's chain of office). Interestingly SHDC's updated image refers to land and sea, as does the Society's logo today – both these elements are an integral part of the South Hams identity.

Following on from the comment in 1973 that the Society's name might have to be changed, there has been debate from time to time over its area of operation and whether this should attempt

...Continued page 10

... The South Hams and the North Hams

to include the entire District Council patch. It has sometimes been necessary to concentrate on the core area of the old South Hams, particularly at times when the SHS committee has been overworked and under strength. Although there is no longer a formal structure like the South Hams Amenity Federation, in practice the SHS responds to requests about issues all across the area and continues to work in partnership with other amenity societies on subjects which concern us all.

In the early Society days, relationships with the Urban and Rural District Councils were generally good. Working relationships with the SHDC have varied a little, but there has always been contact and dialogue which it is hoped will continue.

The proposed new 'Devon Devolution Deal' is referred to elsewhere in this edition – if implemented, it will be interesting to see how it works in the context of amenity societies! •

A Message for New Members

A warm welcome to all our new members and a big thank you to all who completed the standing order form, this will make the subscriptions process so much quicker for us. As a team of volunteers this is really important as it saves us valuable time allowing us to focus on other priorities.

The standing orders have all been processed and sent to your banks and should all be in place by now and your subscriptions paid. Unfortunately, we have had instances where some banks have not set up the standing orders properly so if you can make sure yours is set up and your payment has been processed that would be appreciated.

If you have any questions or queries please contact membership@southhamsociety.com

Many thanks and Happy New Year

Kate Bosworth
Membership Secretary

Our new website



South Hams Society

The South Hams Society, an environmental and heritage charity, was founded in 1961 to protect the natural landscape and the built character of the South Hams, and particularly of the South Devon Area of Outstanding Natural Beauty. The Society aims to encourage high standards of planning and architecture which represent the special character of the area and that fosters a healthy biodiversity. The Society is a supporter of the right development – in the right places – and actively opposes inappropriate and harmful development.

The Society's new website went 'live' at the end of November. Intended to give members more regular updates to our activities than is possible purely through the pages of our quarterly Newsletters, you can there find 'news' items, details of forthcoming events, and many of our most recent letters of representation that we have submitted objecting to various planning applications.

More of our historic objections will be added in the coming days and weeks, while new objections are being uploaded as they are written.

You will also find copies of our Newsletters on the site, as well as advice about planning

matters, guidance as to how to write your own letters of representation, how to campaign, and also where your objections should be sent.

There's information about our history, our landscape, our trees and woodlands, as well as useful links to other sites of interest.

Many of the pages are illustrated with some excellent photos kindly and generously donated by members such as Clare Pawley, Thelma Rumsey and Les Pengelly.

The initial response to the website has thankfully been positive and it, together with our Facebook page, will hopefully help bring the activities of the Society to a far wider audience. •

Lock's Hill still appealing

Another two appeals by Blakesley Estates in the long-running saga of Lock's Hill, this time to vary condition 7 of outline planning permission 28/1560/15/O and to obtain approval of details reserved by condition 8 (Materials) of outline planning permission 28/1560/15/O.

In the case of the first, namely that in respect to vary condition, it was noticeable that no public consultation has occurred. And, as we said in our submission to the Inspectorate, we considered it would be unacceptable were this appeal to be upheld when

the general public had not been given the opportunity to consult upon its detail.

However, that was no the case with the second, the approval of details reserved by condition 8. Here the general public would not be prejudiced by a failure to consult. But, to uphold the appeal, the Inspector would have to come to a different conclusion to that of the LPA and conclude that the planning permission has been lawfully implemented.

As yet, neither appeal has been determined. •

Keeping Harbour Watch



Society remains on Harbour Watch in East Portlemouth

This is not the first application at this property that the Society believed would have an adverse impact on the appearance of the shoreline.

In this instance we were concerned that the proposed swimming pool building fell partially within the area protected by TPO 953, while the incidental watersports storage, changing room and wet suit hanging building is wholly within the TPO 953 area.

In addition it appeared the swimming pool building was to be constructed where the existing sewage septic tank and pump were located. Of necessity this would lead to the requirement for a new domestic sewage facility within the 50 metre protection zone of the Salcombe Kingsbridge Estuary SSSI site, falling foul of Rule 18 of the General

Binding Rules.

We argued that as a consequence of the limited documentation that had been provided with the application, coupled with the issues that had been raised by those plans that had been provided, the application should be refused.

In his report the case officer noted and summarised the issues we had raised. He also noted objections from both the Parish Council and the LPA's Tree Officer and, in refusing the application, concluded neither the conservatory, the waterspouts store nor the indoor swimming pool would be considered permitted development.

Planning permission would therefore be required and a further application could yet be forthcoming. •

Collapit given certificate



Collapit Creek House owners get their certificate

The Society objected to this application for a Certificate of Lawfulness for a proposed rear extension, rear rooflights and window alterations to 'facilitate the refurbishment of the existing house', a former WW1 convalescent home for recovering soldiers, and the construction of various outbuildings for incidental use.

As we pointed out, because the house was listed on the Devon Heritage site, officers were required to take in to consideration JLP Policy DEV21, which states 'development proposals will need to sustain the local character and distinctiveness of the area by conserving and where appropriate enhancing its historic environment, both designated and non-designated heritage assets and their settings, according to their national and local significance'.

The applicant, we claimed, hoped to ignore this requirement by making use of permitted development rights, arguing 'the proposed rear extension, roof lights and outbuildings for incidental use can be constructed without planning permission as 'Permitted Development' by virtue of Class A, Class C and Class E, Part1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended.

But, and as we explained in our objection, we believed the applicant to be incorrect, and consequently the application should be refused.

West Alvington Parish Council concurred with our assessment, pointing out in their objection dated 03 November that 'a full planning application is required to be submitted.'

Unfortunately the case officer disagreed, although not with the Parish Council. As far as he was concerned, in his report dated 01 December, the Council had omitted to comment. Instead, in his somewhat confusing conclusion, he decided:

This lawful development certificate proposal proposes a number of separate buildings each of a relatively large size. The total extent of buildings and their disposition suggests that the application is seeking to provide something unusual and may be providing a fall-back position for some other future development. Their grouping and their position close to such a prominent elevation overlooking the creek raises questions as to the real purpose of the application. No occupier would wish to promote a group of buildings which would have the potential affect the main views from the house. There is therefore a question as to whether the buildings are reasonably required or whether there is another purpose to the application.

However now that the size of the buildings has been reduced in scale from the earlier application, I consider that the proposals are incidental and relate to the reasonable needs of the occupiers of the house.

It is for this reason that a certificate of proposed lawfulness is granted. •

Although officers had originally recommended the application to demolish the existing building and replace it with two residential units should be approved, members on the Development Management Committee had disagreed, arguing the scale, materials and siting of the proposed dwellings would have a negative impact on the street scene, while their massing was disproportion-

<https://www.facebook.com/SouthHamsSociety>

Rendoc allowed on appeal

ate and not in keeping with the local vernacular and the characteristics of the setting in Herbert Road.

Concern had also been expressed about the design and the lack of daylight reaching rooms on the lower ground floor, as well as the relationship of the dwellings to

the existing swimming pool.

The application was refused but the applicant chose to appeal.

In our letter of representation to the Planning Inspector the Society supported the decision that Councillors had reached and asked for the appeal to be dismissed.

Unfortunately the Inspector disagreed and allowed the appeal, concluding the proposal would not harmfully affect the character and appearance of the area, that the development would provide acceptable living conditions for existing neighbouring and future occupants, and that the impact on the AONB, public views and light pollution was not sufficiently serious to justify refusal. •

<https://SouthHamsSociety.org>

Newsletter / 12

Smalls gets withdrawn



Site not part of the curtilage of the cottage

'The Design and Access Statement,' said the applicants, 'explains the site context and how this has informed the design of the present proposal to site a boat house with ancillary accommodation to 'Smalls Cottage' on part of the domestic curtilage to the dwelling fronting the privately owned foreshore known as 'Small's Cove'.

But significantly, and as we explained in our objection, the proposed site cannot be considered part of the curtilage of Smalls Cottage. The site is also immediately adjacent to the Salcombe/Kingsbridge Estuary SSSI site, and the development proposal included a sewage package treatment plant, arguably in conflict with rule 18 of the General Binding Rules for small

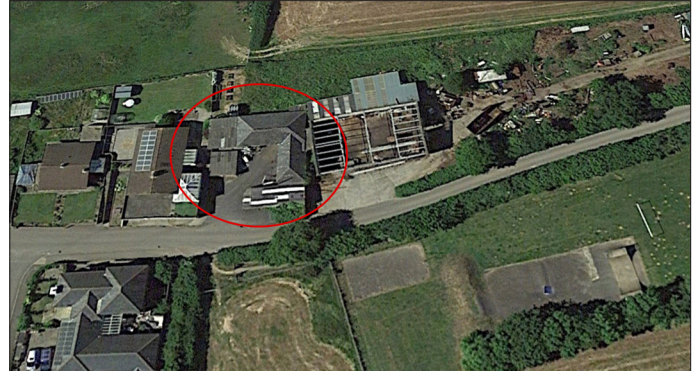
sewage discharges to the ground.

Trees subject to TPO1038 W1 had already been removed, while there are a number of policies guiding residential development away from a foreshore location such as this.

In our view it should be obvious that it was unacceptable to have a dwelling on top of a boat store, introducing domestic living where there currently was none. Light pollution would also be introduced into an area that had none. Cars and car parking would be placed into a landscape that had none. And sewage package plants would be introduced into an area where there were none.

The application, we argued, should be refused. It has since been withdrawn. •

Smithy not agricultural



The 'modern style shed building' and former blacksmiths

According to the applicant's Design & Access Statement the barn, for which change of use to a dwelling house was being requested, 'historically was a Blacksmiths shop but has been used for many years as an engineering business alongside the adjacent more recent modern style shed building'.

However, on the Devon Heritage Gateway site, the building is listed as a workshop, and development is not permitted by Class

Q if 'the site was not used solely for an agricultural use as part of an established agricultural unit', a fact the applicant has acknowledged.

The Society therefore suggested the Case Officer should consider requesting an updated Design and Access Statement from the agent in order to correctly assess the proposal.

Since submitting our letter of representation, the application has been withdrawn. •

No to Cove Guest House



Yet another Section 73 application fails

As we noted in our submission, each of the applicant's current applications were based on planning application 53/2267/15/F, varied by permission 1164/17/VAR, both of which had subsequently lapsed.

This latest Section 73 application was attempting to address the Planning Inspector's refusal of two appeals, but in its design failed to acknowledge the requirements of JLPSPD DEV32.1 – to minimise the use of natural resources in the development over its lifetime, and continued to ignore its impact on the character and appearance of the area, with particular regard to the South Devon Area of Outstanding Natural Beauty and the Undeveloped Coast.

However in his report the case officer disagreed, stating:

I conclude that although the development conflicts with a number of adopted policies its accord-

ance with DEV20 and the weight given to material considerations is sufficient to outweigh any policy contraventions and I therefore recommend approval of the application.

As a result, the Ward Member referred to application to the Development Management Committee. There members concluded the extent of the glazing now being proposed to the dwelling was likely to result in an unacceptable level of light spill, which would have a harmful impact on the dark skies character of the surrounding landscape and would fail to conserve and enhance the scenic beauty and tranquility of the South Devon Area of Outstanding Natural Beauty and the Undeveloped Coast.

In addition, the proposed design by virtue of the level of glazing failed to have regard to the local pattern of development and did not represent good design.

The application was refused. •

Croft Road site too small



Croft Road proposal posed danger to pedestrians

As we noted in our objection this application to demolish an existing outbuilding and erect a new detached single storey dwelling and detached outbuilding in its place, an old stone wall had already been demolished and a gravelled area created without consent first being obtained, causing harm to both the character of the lane and the user experience.

The site itself is approached along Salcombe Footpath 2, and as the Highways Officer made

very clear in his objection, the new dwelling would 'add additional danger to the users of Shadycombe Road... it is thought this is unacceptable especially for vulnerable road users such as pedestrians who will be squeezed against buildings or physical features such as walls in such a tight space.'

We echoed his concerns. We also asked officers to investigate the unauthorised development.

The application has since been withdrawn. •

Site not commercially ok



No occupational need for a countryside location

The problem with this application, the Society explained, is that the application title for the proposal was incorrect. Having reviewed the site planning history, there was no evidence to confirm the claim that the stables were built to support an agricultural need.

In addition condition 6 of planning application 08/1071/00/F made it clear 'the proposed stable blocks shall not be used on a commercial basis'. And the original application was made for stables to be used on a purely private basis with no link to agriculture. The keeping as opposed to the grazing of horses is not classed as agriculture.

As a consequence some of the statements made by the applicant's agent in support of the proposal were immaterial, while

the location itself was wholly inappropriate for commercial activity, given the proximity of more suitable locations nearby.

Both the Parish Council and Devon County Council Highways also submitted objections.

As the Decision Notice made clear: 'the proposal fails to demonstrate an occupational need for a countryside location, and is considered to result in unsustainable development in the countryside', while 'the proposed change of use is considered to be incompatible with the rural road network accessing the site, which is unsuitable to accommodate the potential increase in vehicle journeys to and from the site resulting from the development.'

The application has since been refused. •

If at first you fail try again

In objecting to the original retrospective application(0633/23/HHO) 'for minor amendments to design, layout, materials & the introduction of ancillary accommodation in detached garage building approved under planning consent 1412/19/HHO' The Society made the point the proposed amendments were anything but minor.

Yet now the applicant has returned, attempting to justify and retain many of the features that caused that application to be refused.

Consequently were this application to be approved despite the applicants and/or their agent having previously chosen to ignore conditions imposed by the LPA – even though they were almost certainly fully aware of those conditions, and were they now to be allowed to profit from those breaches, the LPA would be sending out the message that planning conditions can effectively be ignored with impunity.

The application has as yet to be determined. •

Exploiting the GPDO



Onnlea: where one application follows another

The Society had previously objected to an application for a Certificate of Lawfulness for the construction of two outbuildings for incidental use that was previously certified earlier in the year.

However the Certificate was granted and was now being used to justify an application for alterations and extensions to the existing dwelling. But that, in our view, did not constitute a material consideration, while there were other reasons why the application should also be refused.

The Parish Council agreed, stating:

Councillors felt the premise made in this application that the permitted development rights recently approved form a Material Planning Consideration is untrue. Therefore they should be discounted and this application should be considered as a standard (Class A) Application. The PD rights cannot be used as a bargaining tool to achieve a large development in such a highly protected area.

The application has yet to be determined. •

More barns for Moreleigh



The existing building can be seen to the right

Earlier in the year the Society had objected to a retrospective application to permit the change of use of an existing supposedly agricultural building in the adjacent field to permit it to house horses.

Now the owner of the neighbouring field also wishes to construct a 'general purpose agricultural building' on his 7.5 acres, even though his agent states he also owns a further 44 acres elsewhere in the neighbourhood.

The need for the building is justified on the basis that somewhere is required to store machinery, fodder and bedding. Given that

is the case, in our objection we suggested it would be more logical were the building to be constructed on the larger plot of land, and question why that option has not been considered.

Were this application to be granted the barn would be yet another visually prominent building in this historic landscape setting. Consequently, unless a genuine agricultural need for a development in this location can be clearly demonstrated, we argued, the application should be refused.

The application has yet to be determined. •

Letters of Representation submitted by the Society to these and other applications can be found on our website:
www.southhamsociety.org/objectionlist

Transparency about site visits is sadly lacking

In the last issue of our Newsletter (October) we reported how a Freedom of Information request from the Society had revealed that to of the District's planning officers lived more than 300 miles away from Totnes.

Unfortunately that same request failed to provide answers to both how often officers actually came in to the office and the number of site visits each undertook compared to the number of applications for which they were responsible.

The information, we were told, was not available. The Council only retained records of who had or had not been in the office for 30 days, and data relating to site visits was not held in a readily available format.

As a consequence we wrote to the Council's Monitoring Officer to a ask:

... you consider the practice of destroying records of work said to be done at home and in the office after 30 days is compatible with the requirement to ensure that the authority has a sound system of internal control which inter alia ensures that the financial and operational management of the authority is effective and includes effective arrangements for the management of risk (as required by regulation 3 of the Accounts and Audit Regulations 2015 - attached), given that it precludes subsequent checks on potential fraud and the effectiveness of the authority's operational management.

and added:

Finally, although I appreciate that you may not be the person I should be addressing this question to, should the case reports written by planning officers not state as a matter of course whether a site visit has been conducted by the author of the report and, if not, why such a visit was considered unnecessary?

In response we were told:

As Monitoring Officer, it is outside of my remit to comment on whether the Council has a sound system of internal control. There are others whose role it is to do that and who are better qualified than me to comment. Also, I cannot comment on how the auditor is satisfied that the Council has made proper arrangements for securing the economic, efficient, and effective use of its resources. The external auditor's reports are publicly available, and you are therefore able to read for yourself, what he has considered.

He concluded:

Finally, regarding the matter of

Important Dates	
Application Received Date	21/10/2021
Application Valid Date	29/10/2021
Consultation Start Date	
Site Visited / Site Notice Date	
Consultation End	11/05/2023
Advert Expiry	11/05/2023
Committee Date (if applicable)	
Committee Agenda	
Decision Date	28/07/2023

The date of any site visit is to be stored on the Council's new planning website but is not to be made visible to the public

site visits by planning officers, the Assistant Director of Planning has told me that an officer would visit most sites when a planning application has been submitted. However, there will be instances where a planning application will not trigger a site visit because the site has been visited previously by the officer, for example during a pre-application or previous application. Equally, I understand that an officer may not visit where the application is a straight-forward Householder Application. As for your suggestion that the officer report should state as a matter of course whether a site visit has taken place, I am afraid that we do not consider it necessary.

Why, we wondered, was it not thought necessary? So we wrote back:

You state that "we do not consider it necessary" for an officer's report on a planning application to state whether its author has visited the site or why such a visit was not considered desirable. You merely assert that to be the case without explaining why. I would be very grateful if you would now do so given that members will be better informed of the evidential basis for the contents of the report and any recommendation it contains if such information is provided.

For an answer we were referred to the Council's Assistant Director Planning, who explained:

The Planning Officer's report sets out the principal considerations which have informed the recommendation of the Officer. As I'm sure you can understand there has to be a balance to be struck between ensuring that the material considerations have been addressed and the length of the report. As the Society's own website says Officer's Reports can be a lengthy document. The Council is satisfied that we have the correct balance and as such will not be taking forward your suggestion.

Thanking him for his prompt

response we acknowledged the need to achieve a balance between ensuring that the material considerations have been fully addressed and the length of the report, and added:

However I fail to see how adding less than 10 words to the officer report – ie: 'A site visit took place on 12 March 2023' or 'No site visit was undertaken', would make the reading or the writing of the report any more onerous. Perhaps you could kindly explain?

Conversely including such information would, I maintain, enable members to be better informed of the evidential basis for the contents of the report and any recommendation it contains were such information to be provided.

Suffice to say, the Council's Assistant Director Planning disagreed, saying:

I am satisfied that the current template serves its purpose of facilitating the setting out of the material planning considerations and the officer's conclusions on them in a clear and logical way. Indicating whether a site visit has been undertaken would not add anything to the overall consideration of the application and could serve to detract. Our position is therefore that this is not necessary to include such an indication.

Could serve to detract? Could serve to detract! A surprising response you might think. So we wrote once again, making the point:

I am puzzled by your claim that 'Indicating whether a site visit has been undertaken would not add anything to the overall consideration of the application and could serve to detract.' Surely it would assist elected members to know whether the actual author of the report and recommendations (as opposed to any person subsequently sanctioning its distribution) has or has not visited the site when any assertions in it are made about the likely impact of

the development on the area (as reports invariably do)?

Why would elected members (or any other decision maker) not be assisted if they knew the evidential basis for the report and any recommendation when considering the application? And how can elected members (or others reading the report) having that knowledge possibly "detract" from their consideration of the application – an unsupported assertion which I am at a loss to understand?

Also, could you please tell me whether or not a record is kept of whether the author of any report has in fact made a site visit in connection with its consideration?

No answers to any of those questions were forthcoming. Instead the Council's Assistant Director Planning simply said:

Further to our previous correspondence, I have set out the position of the Local Planning Authority on this matter, the decision on what to include or not is one we have considered as a management team and with our legal colleagues. This has historically also taken place as we develop our approach with changes to process and legislation. While I appreciate it may not include what you consider it should, we can not open up our processes to be altered or changed by others, to do so would not be manageable or consistent. Having experience of a number of Local Planning authorities our approach here at South Hams closely aligns with others approach.

Failing any better explanation, you might conclude that were members to realise no site visit had taken place, they might have less confidence in any conclusions the case officer had reached concerning, for example, the impact the proposal could have on neighbouring properties or the landscape, or whether the proposed design complements or conflicts with the local vernacular.

And, were that to happen, any loss of confidence could certainly serve to detract from consideration of the application.

But omitting such information also fails to inspire confidence, particularly when the suspicion remains that any planning officer living more than 300 miles away is unlikely to make too many site visits.

The Society has since been told that in future the date of any site visit is to be recorded on the Council's new planning website but it will not be publicly visible. This lack of transparency is highly regrettable. •

Devolution Deal looks like another fine mess

Readers of the local press and visitors to the Society's website and our Facebook page will know that in recent weeks several mentions have been made of the proposed Devon Devolution Deal.

For those unfamiliar with the matter, back in mid-November Devon County Council announced:

The Government has confirmed plans to finalise a ground-breaking Devolution Deal with Devon and Torbay' and 'will introduce secondary legislation to create a Combined County Authority (CCA) for the area.

A Combined County Authority is a new and additional layer of local government, introduced as part of the Levelling-up and Regeneration Act.

According to the Act the new Authority will be able to take over responsibility for activities currently carried out by our District Council, and for the 'function to be exercisable by the CCA instead of by the county council or unitary district council.' In other words functions that are currently the responsibility of South Hams District Council, such as planning, could be taken over by the new Authority, removing local oversight and accountability to somewhere even further away from the communities most affected.

For now any such change can only occur with the agreement of our councillors. But there is no guarantee this will not change in the future. Certainly Sir Keir Starmer is on record as having told The Guardian that 'combined authorities would get more control over housing and planning, skills, energy and transport of the



Local newspapers published the Society's assessment

kind currently held by London, the West Midlands and Greater Manchester'.

Responding to the Society, Devon County Council Leader John Hart said:

The County Council will approve the Deal at its Cabinet in March and it will be ratified at a Full Council shortly afterward.

Before that, he explains, there is to be a consultation and

District Councils and residents will both have the opportunity to comment on the proposals during the consultation period.

But even if residents take the trouble to express their views, both to our District Councillors and through the promised consultation, we effectively have no say. The 'Deal' can be imposed upon us whether we like it or not. For neither we nor our District Councillors are to be given a vote.

So at the meeting of South Hams District Council on 14 December the Society asked our councillors whether they thought this was acceptable.

Rather than answer the question directly Cllr Dan Thomas, the Deputy Leader of the Council, provided a written response:

The details of the Devon Devolution Deal have not yet been announced by government and therefore the implications of any deal for the residents and businesses of the South Hams are, as yet unknown. Once the details of the deal become clear the Council will of course consider it in due course.

Fortunately District Councillor Thomas, who also sits on Devon County Council, had been somewhat more forthcoming at the meeting of North Huish Parish Council a week earlier. There he informed attendees:

There is due to be more devolution in Devon. But I can't tell you what it's going to look like. Because nobody knows. And you can read in to this what you will... The Labour Leader of Plymouth City Council has opted not to form a part of this latest plan... if it does happen, with my County Council hat on, I will presumably have a say in what goes on, although not personally as an opposition member. But as a district councillor I'll have no say at all. So let's hope that planning is not something they're aiming towards.

And as he told the Parish Council:

I know that you record your meetings. If Cllr Hart chooses to listen he won't have heard me say

anything rude or swear!'

Originally a special meeting of the Devon County Council Cabinet was scheduled for 19 December to discuss the Deal, and that might have enabled us to learn more. But this was suddenly cancelled, supposedly because details of the Deal still remain to be finalised.

The next Cabinet meeting is now scheduled for 10 January. Even if all the details are available by then it leaves less than 12 weeks until the end of March. In that time a consultation has to be carried out, the responses collated and assessed, and Devon County Councillors to hold the vote on whether to proceed.

With the Deal being very much a Conservative initiative, and with the Conservatives enjoying a comfortable majority on the County Council, the outcome is a foregone conclusion. But more haste and less consideration inevitably makes for bad legislation.

Not only should we, or at the very least those directly responsible to us, namely our District Councillors, be allowed to vote on whether we wish to be part of this 'Deal'. But we should not be expected to decide before we both know precisely what the next government intends, regardless of its political persuasion, but also the financial implications. The Act is clear that residents will have to bear their proportion of the costs of the new Authority.

Cllr Hart and his colleagues noticeably have no mandate for their 'Deal', and to be crowbarred in without consent is simply democracy denied. •

GIFT AID

The Society is able to claim back 25% of the value of your membership subscription or donation from the government if we hold a Gift Aid declaration for you. For example, a subscription of £10 generates a Gift Aid claim of £2.50. Currently we make a claim once a year. Our claim for 2021 resulted in a payment from HMRC of £344.79, a sum which goes straight to our funds.

If you are a UK taxpayer and pay an amount of income tax at least equal to the amount that the Society can reclaim (25% of your subscription or donation), then you can sign a declaration.

Many members are already recorded as having signed a Gift Aid declaration. This information is held by our membership secretary. If you think you may not be signed up and would like to be, please complete the declaration below and send a scanned copy to membership@south-hamsociety.org, or send it by post to South Hams Society, c/o Shepherd's Corner, Galmpton, Kingsbridge, Devon TQ7 3EU.

If you would like to know if you are already signed up, just ask our membership secretary on the same email address. You can cancel the declaration at any time.

Name

Signed: Date:

Even after the report, Freeport concerns remain

Article 5.1.1 of the Freeport Members Agreement makes it clear that ‘each of the Members agrees with each of the other Members to be a Member of the Company for a minimum of an initial period of five years.’

That Agreement came in to force in May 2022. So for better or worse, South Hams District Council has no realistic option other than to be part of the Freeport until May 2027. And the Freeport itself will continue, with or without South Hams remaining a member, until such time as either or both Treasury consent is withdrawn and Parliament revokes the ‘Designation of Freeport Tax Sites (Plymouth and South Devon Freeport) Regulations 2022’.

In other words, for as long as the Freeport exists, it must make sense to be part of it, in a position to influence its direction and the very obvious impact it inevitably will have on us, rather than irresponsibly abdicate any involvement.

Consequently as the Chair of the Council’s Task & Finish Group Cllr Lee Bonham advised fellow members of the District Council at their meeting in December: ‘The risks that do exist can be managed and mitigated. But we should proceed with caution.’

Among the risks identified by the Task & Finish Group were:

- i. a new Government changes the way the Freeport operates, or the way that retained business rates can be used.
- ii. costs could escalate, or the projected income stream fails to meet its target so that income fails to cover the loan repayments costs, possibly caused by a lack of tenants, delays in the developments or other factors beyond the control of the Council.
- iii. local training infrastructure cannot meet the skills needs of businesses locating to the Freeport, so adding inward migration pressure and associated impacts to the housing market, whilst also blocking local people from the economic opportunities offered.

In addition the Task & Finish Group reported some risks had been identified at an earlier stage of the project relating to both weakened planning controls and the extension of the Freeport (or enterprise zone) to a much wider area within the designated boundaries. But they concluded: ‘This risk now seems not to be real as we understand that traditional planning rules still apply to the Freeport and the enter-



Solar panels that may yet help Langage produce green hydrogen

prise zone applies to Plymouth Oceansgate only. However, the Council should keep a watch on this potential risk.’

And for a number of reasons that risk remains.

Schedule 3 of the Freeport Members Agreement requires the unanimous agreement of South Hams District Council, Plymouth City Council and Devon County Council to a number of Reserved Matters, including the landowner agreements or any material change to those agreements. The District Council would therefore appear to have a veto.

However Schedule 11.2 of the Members Agreement states that if there is a Deadlock (should all participating councils not agree) there is a specific Procedure that must be followed. And should no resolution be found at its conclusion then an independent Expert is to be appointed (if necessary by the President of the Institute of Chartered Accountants in England and Wales) and his or her ruling will be final and binding.

This might be crucial as, separately, the Memorandum of Un-

derstanding signed by the Government, the three councils and the Freeport Company commits the Billing Authorities, of whom the District Council is one, to use ‘reasonable and appropriate endeavours to deliver a planning environment that supports appropriate investment on Freeport tax sites, including by exploring innovative uses of planning tools, and learning from best practice and from other LPAs and sharing expertise and experience with other Freeport tax site LPAs.’

Those ‘appropriate endeavours’, for example, could include having to find more land for housing were there to be added inward migration pressure should either the local training infrastructure fail to meet the skills needs of businesses or were existing residents for whatever reason to decline to take the jobs on offer.

Similarly an additional sentence has been added to what used to be paragraph 66 and is now paragraph 67 of the National Planning Policy Framework. Shown in italics, it reads:

Strategic policy-making authorities should establish a housing

requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. *The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment.*

Consequently were that housing to be needed to support the economic development of or investment on either the Sherford or Langage sites, then the land necessary might well have to be found here in the South Hams. Were our Council to decline to provide it, the ‘Deadlock’ procedure could feasibly be invoked and the independent expert to rule that the land for housing must be found.

Separately, to help mitigate such financial risks as escalating costs and income targets being missed, the Task & Finish Group recommended ‘that the Director of Place reports every three months on the progress of that part of the development of the Freeport in South Hams to the Executive, comparing actual progress of the development and occupancy to the plan’.

It is to be hoped that will happen, with the information being made publicly available. In addition, at December’s Full Council meeting, local journalist Jim Funnell also enquired:

The Task & Finish report recommends a communication and engagement programme with local parish and South Hams region to inform public opinion. Will this engagement clearly identify the risks, delay and current projected net financial losses to the Freeport as highlighted in the report, as well as the benefits?

Cllr John Birch, executive lead for Economic Development, Commercial Strategy and Governance, confirmed the engagement would, before adding the caveat: ‘The Council will be determining the means and/or methods by which the recommendations in the Task & Finish Group Report will be implemented and complied with.’

It will be interesting to know precisely that those means and/or methods might entail. But after the obfuscation and lack of transparency that accompanied the District Council’s original decision to be part of the Freeport,

...Continued page 20

The screenshot shows the website for Plymouth and South Devon Freeport Limited Governance. The navigation bar includes Home, The Offer, About Us, and News. A 'Customs Enquiries' button is visible. The main content area is titled 'Plymouth and South Devon Freeport Limited Governance' and 'Board Meeting Minutes'. A list of minutes is displayed with dates: 30th March 2023, 9th February 2023, 28th October 2022, 7th October 2022, 1st September 2022, 28th June 2022, and 19th May 2022.

The last Freeport Company board meeting was in March 2023

The never ending saga of Butterford

Long-time readers of this Newsletter will recall our making mention of a series of applications on land at Butterford in the parish of North Huish, featuring as it did in all five of our issues published between April 2022 and April 2023 – all of which remain available on our website.

Fortunately not every inappropriate development with which the Society has to contend proves quite so time consuming. But in addition to the various letters of representation and concern that our planning team found it necessary to submit, we also wrote to the LPA on a further 37 occasions.

And that was just to convince the LPA their decision to approve the original application was 'unsound'.

Since then we have added to our initial correspondence by sending another 35, attempting to first 'encourage' enforcement officers to take action and then, following their decision to prematurely close their investigation, to subsequently undertake a full case review, the outcome of which is that a new enforcement case has now been opened.

That is very much the shortened version of what has happened to date. Bear with us and a fuller version follows.

Our tale begins on 9 February 2022, when the Society submitted a Letter of Concern in respect of application 3808/21/AGR that sought to determine whether prior approval was required for a proposed agricultural storage building, on land at Butterford in the parish of North Huish.

Significantly there were important errors of fact in the



The track carved across the landscape and up the hill

documentation submitted on behalf of the applicant, and the case officer had simply repeated those errors in determining the application. Amongst those was the claim there was already existing track leading to the intended location for the building.

Had either a site visit been undertaken or, alternatively, nothing more onerous than checking Google Earth prior to the application being determined, it would have been immediately obvious that the claimed track was a fiction. In our letter we took the opportunity to remind officers of the words of Kerr J: 'a planning permission issued in error and without proper authority is invalid and may be declared so or quashed'. The judge was speaking during R (Thornton Hall Hotel Ltd) v Wirral MBC (2018) EWHC 560 (Admin). We also pointed out that the construction of a track had since begun, for which no planning consent was in place.

An Enforcement Case was imme-

diately opened, only to be closed once the landowner submitted a retrospective application to retain the track. Our objection to 1592/22/FUL followed on 6 June. The application was then withdrawn on 03 July after the applicant had been told it would not receive consent. A further retrospective application 4012/22/FUL was subsequently submitted in November, with our objection being sent in just before Christmas. That application in turn was eventually withdrawn in April 2023.

However, while all this was going on, the Society continued to challenge the LPA on the determination of the original application 3808/21/AGR. Back in February of 2022, shortly after submitting our Letter of Concern, we also wrote to the Council's Head of Development Management Practice asking him to respond to three specific questions. An answer to one of those questions was received from a Planning

Enforcement Officer.

In his response, and contrary to the claim made by the applicant, he confirmed there was no existing track. He also confirmed 'the owner has stopped work and will not be moving forward with any further work on the track or the erection of the building until this issue is sorted.'

Further was to follow until, at the start of August, the LPA's Planning Business Manager told the Society:

we have reviewed the additional information which has been brought to our attention particularly information which contradicts the assertion in the Planning Statement saying that the site of the proposed building had an existing access track leading to it. The prior notification application was determined in accordance with the information submitted and provided to Officers at the time. In reviewing the information provided and historic aerial photographs the Council now considers that the proposed building no longer has a lawful access track leading to it.

Given these concerns we are seeking the opinion of the Council's Lawyers regarding the validity of the application and decision reached by the Council.

It was to be a further four months before that opinion was finally received, on this occasion from the Council's Locum Planning Lawyer:

I write further to your letter dated 7 February 2022 in respect of the application for prior notification as to whether Prior Approval was required for a proposed agricultural storage building at the above site. I have now given full consideration not only to the content of your letter but also the application

...Continued page 18



Soil heaped next to where the track has been cut in to the field



The track being excavated immediately next to the hedgerow

that was submitted and the subsequent decision made by the planning officer.

The Council is satisfied that the decision is sound and the Council does not intend to take any further action. I can also confirm that consideration was also properly given to the question of the siting of the barn and any impact it might have on the AONB.

Replying to the Locum Planning Lawyer we again itemised the misinformation provided by the applicant on which the planning officer had relied in order to reach her decision, before asking for confirmation:

that, had the information submitted by the applicant been factually correct, the planning officer would still have reached her decision that prior approval was not required, and provide the basis on which you reach that conclusion.

No response was received, so we decided to submit a Freedom of Information Request to the Council's Head of Legal Services on 08 December 2022, in which we noted that the Council has both a statutory duty to give reasons for decisions, as set out in Regs 7 and 8 of the Openness of Local Government Bodies Regulations 2014, as well as a common law duty to give reasons for planning decisions. We also posed three questions that followed on from the Locum Planning Lawyer's decision, namely:

a) whether she concluded the decision was sound on the basis of the information provided by the applicant

b) whether she concluded the decision was sound even though, and notwithstanding the information provided by the applicant:

i) the site of the proposed building was actually visible from both the PRoW to the west and the lane running down from Diptford Cott to Broadley to the east and, as a consequence, Article 8 of the Planning (General Development Procedure) Order 1995 and regulation 5A of the Planning (Listed Buildings and Conservation Areas) Regulations should have required the LPA to publicise the application in the local newspaper.

ii) that as there was no existing track to the site of the proposed building, and given that the LPA has a statutory duty to both conserve and enhance the AONB, it was unnecessary for the planning officer to question whether the building could not be sited more sustainably in the south east corner of the field, close to the point at which access is gained from the public highway, where it would also be invisible from any public viewpoints.

... The never ending saga of Butterford



The digger on the track through the trees

c) whether any decision can be considered 'sound' if it is taken on the basis of information that subsequently turns out to be incorrect

Two months later, on 06 February 2023, the Council's Head of Legal Services acknowledged:

Having considered the matter again and notwithstanding what was said in our letter dated 23 November 2022, the Council accepts that the decision to issue the prior approval was unsound in the sense that the decision-making process was flawed because there was no assessment of whether the works for the erection of the proposed building were reasonably necessary for the purposes of agriculture within the agricultural unit; there was no express consideration of the proposed development in the context of the AONB and the Council proceeded on the basis that there was an existing access track when there was no such access track.

As for the prior approval decision itself:

although the Council will not initiate any judicial review claim for an order quashing the prior approval decision, were such a claim to be filed by the Society the Council would not resist it (if legitimate grounds of challenge are identified).

It goes without saying that, as a

small charity, the Society lacks the funds to fight expensive court cases and, even were it to be otherwise, there is a six week window within which a judicial review claim can be made, facts of which the Council's Head of Legal Services might well have been aware.

However, although the Society had been vindicated in its efforts, there was still the question of the track, and whether that should be allowed to remain.

On 02 May 2023 the Society had been told by the Council's Specialist-Planning Enforcement:

the owner is aware that if permission is not granted they will need to remove the track, and restore the land to its previous condition.

Just over a month later, in a further email, he wrote:

In areas where the track has been cut into the slopes of the field, the owner will be either breaking down the edge or filling in to restore the track area to a more natural slope.

Yet despite these commitments some months and a good many emails later the Society received notification from the Enforcement Team on 03 November that:

Enquiries have been carried out

into the alleged breach of planning control and a site visit was carried out on the 3rd October 2023.

It was clear on the previous visit of the 6th June 2023 that a lot of the track had been cleared, I can confirm that following the site visit of the 3rd October, it was confirmed that further track clearance had taken place.

The council is now satisfied that the track has been cleared, to a satisfactory standard.

The case was accordingly closed. A further flurry of emails followed, the Society refuting some of the statements made by the Enforcement Team and providing written and photographic evidence in support.

Not only had the track not been removed and the land restored to its previous condition, but the route it had followed remained scarred across the landscape, with the soil removed in its construction piled in banks beside it. Most but not all of the stone that had been spread on its surface had gone, heaped in a pile elsewhere on the site, from where we feared it could all too easily be replaced at some point in the future.

We had also previously reminded the Council's Specialist-Planning Enforcement that according to the applicant's Design & Access Statement that accompanied the second of the retrospective applications submitted to retain the track (4012/22/FUL):

The track is also required to facilitate the safe movements of tractors and agricultural machinery, especially during the winter months when the ground conditions worsen and the ground becomes poached/damaged. Due to the topography of the land the Applicants needed to create a safer access to get the machinery and equipment across the land as in wet weather the Applicants will be unable to travel across the land to feed the livestock and carry out essential welfare checks on the animals.

In other words without the track the viability of the proposed building in its preferred location, and for which planning permission remains in place, would be doubtful, while the choice of that location was far from immediately obvious.

Indeed, asked why anyone would choose to build an agricultural storage building on top of a hill at almost the furthest point from the public highway and the entrance to the site, a local farmer could only suggest 'the view is better from there'.

...Continued page 19

Conserving in (and out of) Lockdown

Whilst joining together to stay home, protect the NHS and help save lives, we are hearing of an improving our air quality as we travel less in our cars etc. But, with extra time on our hands and some lovely sunny spring weather, many of us are spring cleaning, washing, painting and dusting ... everything! Hands up if you've hand washed the car ... that's going nowhere fast?!

This is going to have some environmental impacts – it may well be very small but now consider how many other people are doing the very same thing? This is the point.

Whilst Climate Change, Water Quality and Wildlife Conservation might not be our top immediate priority at the moment, even locked-down, we are all still making and leaving footprints on our natural environment, our life-support-system.

When I give talks about the nature and management of our estuaries, and their water catchment areas, people are knocked sideways by the incredible beauty of our wildlife and ecology - found right bang on our doorstep. Following my talk question #1 is invariably, "What can we all do to play our part?"

There is obviously an expectation that I will come out with a big project that everyone can sign up



Keep wet-wipes out of sewers, streams and rivers

to, donate to, sponsor, whatever ... and close the door on that big nasty for evermore – put to bed, done and dusted! Unfortunately, in the real non-magic world of muggles, the real answer is the boring one ... not so much an elephant-in-the-room as a nest full of ants ... it really is the small stuff we all already knew.

It's not about beating ourselves up about every single item of plastic we end up buying or bit of food we waste (or for that matter others around you that haven't woken up yet) – it's about trying - trying to do our best ourselves ... yep, all those little things that actually we did already know.

- Reduce > Reuse > Repurpose > Recycle > Refuse re'sponsibly [sic]
- Only the 4Ps down the toilet ... Paper, Pee, Poo & Puke
- Reduce FOG down the sink ... Fats, Oils and Greases

- Food waste should be composted where possible and not disposed of down the sink
- Flushable wipes rarely are ... and shouldn't be anyway!
- Read the packet instructions for garden chemicals ... more often does more harm than good (check your slug pellets – avoid metaldehyde pellets)
- Road drains normally drain to the nearest natural watercourse – Only Rain Down the Drain!
- Streams are vital wildlife corridors – leave them wild and don't treat them as compost bins
- Our waste water disposal system has its limitations – it can suffer from overload with clean rainwater during rainwater events – check your drainage for misconnections and see if you can retrofit a Sustainable Drainage System to fill a pond, water butt or soakaway naturally
- Out of date medicines should

never be flushed away – take them back to a pharmacy for responsible disposal – some active chemicals don't breakdown within the normal rural system

- Modern engines and oils don't need warming up to work and if it's cold, wear more etc. etc.

... pretty much, all common sense stuff! All of it easy, none of it individually life changing or challenging ... maybe a little boring BUT (and it's a really BIG BUT), the more that we all do these stupidly simple things, the bigger and the positive the impact will be on our air quality, our countryside, our streams, our rivers, our beaches and seas ... our health and wellbeing, our very life support system – our lovely plant! This is the concept of 'cumulative impacts', all together we can make a positive difference.

And sorry, this isn't just for one day, one week or one year – probably like the coronavirus, this is something that we all need to live and work with – but unlike the coronavirus, there is even less of a chance of a vaccination-like solution, so again, it's up to all of us.

Live sustainably to save your quality of life. •

© Nigel Mortimer – South Devon National Landscape Estuaries Officer

Then finally, on 13 November, the Council's Planning Business Manager wrote to the Society:

I can advise that in light of the concerns which you have raised we have undertaken a full case review. The outcome of which is that a new case will be opened with our Senior Enforcement Officer taking the lead. I will be closely overseeing the investigation and you will be provided with further updates once the case has been progressed.

Of course, given the facts of the case are well-known, you might have thought any update would be quickly forthcoming. So as we wrote in correspondence number 38 to the Council's Planning Business Manager on 14 December:

It is now more than a month since you kindly informed me that a new case was being reopened.

Although I appreciate you cannot report on its progress the facts are well established, and it is hard to envisage why it should take very much time for officers to establish what action needs to be taken.

I was therefore wondering whether as yet you have any idea

... The never ending saga of Butterford



A reminder of the damage the track has caused

as to when a further update might be forthcoming?

The Council's Planning Business Manager replied just before Christmas on 22 December. She wrote:

I can confirm that the investigation is progressing and I anticipate you being provided with an update when the next steps in the investigation process are taken.

So we replied by return, repeating the point we had made

previously:

Very many thanks for getting back to me, although I have to confess to bemusement that any 'investigation' should take this length of time. The facts of the case are both well-known and well-established. In an email of 02 May (sent at 12:05pm) the Council's Specialist-Planning Enforcement made a commitment that 'the owner is aware that if permission (for the track 1592/22/FUL) is not granted they will need to remove

the track, and restore the land to its previous condition.'

And in a further email on 07 June he then went on to state: 'In areas where the track has been cut into the slopes of the field, the owner will be either breaking down the edge or filling in to restore the track area to a more natural slope.

Although some but certainly not all of the stone on the track surface has since been removed the track itself remains where it has been cut in. It has not been filled in and the land has not as yet been restored to its previous condition.

Surely all that remains to happen is for the LPA to ensure the commitments made by your colleague are undertaken?

No doubt this saga will one day reach a conclusion. And we trust officers will not find it 'expedient' to renege on their commitments and take no further action. For the planning system to retain credibility it is important that enforcement should be seen to be both proactive and effective.

The fear with Butterford as it stands is that it will prove to be neither. •

Newsletter / 20

Two photos by Clare Pawley



the Task & Finish Group certainly deserves credit for making previously unavailable information public.

However just how much Cllr Birch, who represents the Council on the Board of the Freeport Company, or the Council's Director of Place, who also attends Freeport Board Meetings, will be able to tell the Executive or offer enlighten-

... Freeport concerns remain

ment to any communication and engagement programme may yet prove questionable.

In the first 10 months of its existence the company Plymouth and South Devon Freeport Limited held no fewer than seven board meetings, or an average of one every six and a half weeks. In the 39 weeks since then not a

single board meeting has been held. Either that, or the minutes of those meetings are no longer being posted on the Freeport's website.

So do our Council's representatives really know what's actually going on?

Fortunately there is at least some good news. Just before Christmas

Langage Energy Park owners Carlton Power finally succeeded in securing funding as part of Round One of the UK Government's Hydrogen Allocation Round.

As a result development of the Langage Green Hydrogen Hub with a capacity of up to 10MW, and which it is hoped will be operational by 2026, can at last begin. •