

PLANNING APPLICATION REPORT

Case Officer: Belle Richer-Hill
Thurlestone

Parish: Salcombe **Ward:** Salcombe and

Application No: 2831/22/FUL

Agent/Applicant:

Mr Richard Pain - richard pain architect
The Loft
Chillington
Kingsbridge
TQ7 2LW

Applicant:

Mr Peter Williams
Flat 6 Stonehanger Court
Devon Road,
Salcombe
TQ8 8HJ

Site Address: Land Adjacent To Stonehanger Court, Devon Road, Salcombe, TQ8 8HJ

Development: Construction of a two storey house

Recommendation: Refusal

Reasons for refusal:

1. The proposed scheme in terms of its scale, form, design, massing, fenestration pattern and features is such that the development lacks harmony and fails to integrate with the local built surroundings and respect the site context. This would have a transformative effect on the verdant character of the site, spaciousness of the area, and density of development. This fails to conserve or enhance the special qualities and distinctive characteristics the South Devon Area of Outstanding Natural Beauty (AONB) and setting of the Salcombe Conservation Area, contrary to the provisions of Section 15 of the National Planning Policy Framework (NPPF), Plymouth and South West Devon Joint Local Plan (JLP) Policies DEV10, DEV20, DEV21, DEV23 and DEV25, Salcombe Neighbourhood Plan Policies SALC B1 and SALC ENV1, and the AONB Management Plan and its supporting documents.
2. The proposed development by virtue of its siting and proximity to 2 Corsican Pine Trees subject to a Tree Preservation Order (TPO) (TPO reference 1010, identified as T1 and T2) would result in foreseeable, rational and reasonable fear of harm and increase the likelihood of applications to prune or fell the protected trees, contrary to the provisions of Section 16 of the NPPF, JLP Policies DEV28 and DEV25, BS5837: 2012 Trees in Relation to Design, Demolition & Construction, and Neighbourhood Plan Policy SALC ENV7.
3. The proposed development would be likely to result in an increase in the volume of traffic entering and leaving the Class C County Road through an access, which does not provide adequate visibility from and of emerging vehicles, and insufficient information has been submitted regarding the provision of parking, contrary to provisions of NPPF paragraphs 110 and 112, JLP Policy DEV29, Neighbourhood Plan Policy SALC B1, and section 8 of the Plymouth and South West Devon Supplementary Document (SPD).

Key issues for consideration:

Design, scale, massing; Landscape; Trees; Highways and access

Site Description:

The site falls within the South Devon AONB making this a sensitive location, set within a highly valued and nationally important, protected landscape.'

'The use of locally appropriate natural stone to the elevation is noted, but I disagree that development in this location is consistent with the townscape character of the town. The positive elements of character that make Salcombe locally distinctive and that contribute to the Special Qualities of the AONB include the well vegetated green spaces on this part of the hillside where built form is absent, including within private gardens. These green gaps between built form are a characteristic feature of Salcombe, and are identified as such in SNDP Policy, SALC ENV 7 Maintaining the character, density, and green infrastructure in key areas, which states that:

"Development in the areas shown as Character, and density policy areas A and B illustrated in figure 15 will only be permitted where such development would not detrimentally impact on the character of the existing low density development, mature gardens and trees in these areas."

The site is located within Character and Density policy area B. It lies between Devon Road to the north-west and Cliff Road to the south-east, with existing residential development lining both of these roads. The garden spaces located between these dwellings and apartment buildings collectively provide one of the valued, linear, green gaps on the hillside. There are already a few locations where recent development has encroached into these spaces, visibly altering the balance of the proportion of green space to built form, and eroding the low density character of this part of the town. Part of the site has previously been subject to a woodland TPO, which the Council has confirmed is no longer viable.¹ Even so, despite the previously removal of tree cover, the site remains well vegetated, and the proposed development would therefore remove a significant area of green space to the detriment of the low density development character of the area, which is particularly evident in wider views of the town, including from across the estuary. I therefore find that the proposal conflicts with policy SALC ENV 7.

In the Appeal Decision for APP/K1128/W/20/3260083 (dismissed), the inspector stated that the main issues were whether or not the proposed development would increase the likelihood of significant works to trees subject to a Tree Preservation Order (TPO) and, if so, whether this would cause harm to the landscape and scenic beauty of the South Devon Area of Outstanding Natural Beauty (AONB). This refers to the two Black Pine trees at the top of the bank, adjacent to the application site within the grounds of Rockledge, which are protected by a TPO.

The Salcombe Conservation Area Appraisal recognises that mature pine trees act as focal points in the estuary and in views from the wider landscape, and so contribute to a strong and unique sense of place. The two large, prominent, protected pine trees are locally important sylvan features and are easily discernible as individual trees from across the estuary around Mill Bay. The two protected trees make a significant, positive contribution to the landscape and scenic beauty of the AONB, a fact that has not been disputed by any party.

I note that the current application's intention is to reduce any fear of harm from the trees to as low a level as possible through design changes to the building and to its footprint. However, the concerns of the SHDC Tree Officer are noted, as is the assessment of the Inspector in the Appeal Decision for APP/K1128/W/20/3260083: that residential development immediately below the protected trees would increase 'fear of harm' from the trees, and therefore increase the likelihood that an application is made to the Council to prune or fell the trees, which the Council would likely find it hard to resist. In Landscape terms, if the development ultimately resulted in the loss of two visually prominent pine trees, this would fail to accord with adopted policies DEV23 and DEV25, which seek to ensure development conserves and enhances the natural beauty of the landscape with particular reference to its special qualities, distinctive characteristics and valued attributes.

Special qualities define the unique "natural beauty" for which the South Devon AONB is designated as a nationally important protected landscape. Rather than enhance the AONB, development in this location would conflict with the AONB Special Qualities of "A landscape with a rich time depth and a wealth of historic features and cultural associations", where the distinctive characteristics include:

- *Historic villages and settlements with strong vernacular architecture and use of local materials give a strong sense of time depth.*
- *Historic villages and towns are clustered at road crossings, bridging points, tidal limits and strategic waterside locations.*

SNDP Policy, SALC ENV1 Impact on the South Devon Area of Outstanding Natural Beauty states: "All development proposals within the Parish should successfully demonstrate that they satisfy all of the following criteria:

- a) They maintain the intrinsic character of the landscapes, townscape and seascape affected;*
- b) The proposal's visual and environmental impact on the AONB and where relevant on the Heritage Coast and Undeveloped Coast has been assessed and minimized;*
- c) It is demonstrated that they have had regard to the guidance on development in the AONB Management Plan and AONB Planning Guidance;*
- d) They cannot be accommodated reasonably outside the Heritage Coast and Undeveloped Coast;*
- e) Substantial harm to or loss of irreplaceable habitats such as ancient woodland should be wholly exceptional;*
- f) Take opportunities available, where reasonable, for improving public access to and the enjoyment of the coast."*

There is no Landscape or Visual Appraisal accompanying the application, although the final section of the DAS, covering 'Area of Outstanding Natural Beauty', is noted. I find that the proposal conflicts with this SNDP policy, as it fails to maintain the intrinsic character of the townscape, in respect of impacts upon the character and appearance of the area as perceived from the town, the estuary, and the opposite bank around Mill Bay, for the reasons that I have noted above.

In relation to the Built and Historic Environment, the SNDP, para. 6.3.1.2 states that "The character of Salcombe has been damaged by development that has not reflected settlement pattern, local materials or design. The cumulative impact of many small scale changes is being strongly felt across the Parish. Approaches to change that respect distinctive local character are increasingly needed to avoid increasing cumulative impacts." The proposed development of a two bedroomed dwelling on the site would be just such a change – a relatively small scale development in the context of the whole town, but one that does not reflect the distinctive local character of the settlement, and that will contribute to the cumulative, adverse effects on distinctive local character that the SNDP is seeking to avoid.

In addition to the in-principle concern about introducing development into this site, the design of the proposed dwelling raises issues relating to the non-vernacular proportions of the building; the large expanses of glazing, and the non-traditional roofline. The proposed dwelling would be externally clad in local stone, but this is the only element of the design that responds positively to local character and vernacular materials. In all other respects, the proposal does not adopt a conventional response to the local vernacular and character in relation to the form, scale, appearance. It is for a strongly contemporary, individually designed dwelling that has an unusual footprint of strongly curved lines; non-vernacular window proportions with expansive areas of glazing, and including projections framed with Corten steel; projecting canopies; a tall, cylindrical, lift tower projecting from the predominantly flat roofline, and a lengthy, elevated walkway linking from the parking area at Stonehanger Court to the roof level of the new dwelling (in addition to a parallel flight of steps to the upper floor).

Natural nightscapes and dark night skies are defining special qualities of the South Devon AONB. I note that the DAS states that the new house has been designed to minimise any light spill, and explains the measures adopted, but it is inevitable that any new dwelling in this location will introduce lighting into a site where there is no artificial lighting at present.

With the issues over character and local distinctiveness identified above, I would conclude that the proposed development would fail to meet policy objectives of PSWD JLP DEV20 Place Shaping and the Quality of the Built Environment, where it requires development proposals to contribute positively to both townscape and landscape; protect and improve the quality of the built environment.

9. Where works would be unlikely to be requested at present given the nature of the land use, it is highly likely that an accelerating level of works would be required at an unknown date by a future occupier with a differing view on trees or with a differing risk tolerance threshold.

10. Any works upon a tree that has been allowed to grow freely into a self-optimised structurally sound form given the site weather, topography, biotic and abiotic factors and so on would inevitably lead to a cycle of life shortening crown decline beyond the natural slow progression into maturity as would occur if left unpruned. This decline could manifest through the entry of wind into previously sheltered internal tree parts and a reduced vigour due to lessened photosynthetic area which would reduce the trees abilities to assimilate and store necessary products of photosynthesis for the resistance of disease and formation of wound wood if branches are damaged during inclement weather events

11. Any TPO application that would be made would be required to be determined mindful of the new set of circumstances (approved dwelling) which would then be difficult for the Local Authority to refuse works that would be refused previously based upon no approved dwelling below. This situation would be carried through to any appeal against an adverse decision.

12. The trees have been subject to a number of safety inspections by the appointed arborist, which find them to be sound and free from readily identifiable defects. This has not been disputed at any point through planning applications against this site and provides a level of surety that the trees will remain as positive visual attributes within the AONB and coastal sylvan setting through their natural life spans if allowed to grow unchecked and without increasing pressure to prune or fell.

13. Peer review of arboricultural survey work, Tree Specialist comments and the Appeal Inspectors decision has been made by a further arboricultural consultancy. I have read the additional documents derived as a consequence of this review but consider that no additional or weighted expansion upon previous information is brought forward that would allow variance of my officer recommendation of objection made to the previous scheme.

14. As summarised within the dismissed appeal I believe that pressure leading to accelerated tree decline/ removal would be a predictable consequence of any consent here and that such fear would be foreseeable, rational and reasonable therefore I raise Objection to the proposed dwelling, this is made mindful of the slight building easement.'

- DCC County Highways Authority Objection

'Having visited the site, it is apparent the existing access affords only 9m 'y' distance visibility from an 'x' distance of 2.4m in a north easterly direction. It is notable speeds are in the region of 20 mph at the access but it is also noted there is approximately a 1:10 gradient uphill approaching the access. This means drivers can stop a car quicker.

Gradients affect stopping distances. The deceleration rate of 0.45g used to calculate the figures in Table 7.1 in Manual for Streets is for a level road. A 10% gradient will decrease the rate by around 0.1g in this case.

When applying this reduced 'g' value into the equation on Page 90 in Manual for Streets 2007 this equates to a required 'y' distance of 22.5m rather than 25m for a level road scenario.

Whilst no injury related accidents are reported to the Police in the last 3 years at the site and traffic levels are moderately low for most of the year on Devon Road it is concluded the 9m available 'y' distance at the access is substandard by approximately 12m, which in this case is a 55% reduction in the recommended national standards. As a result the Highway Authority has concerns the increase in use of the access is likely to be of detriment to the safety to existing road users and the Highway Authority is recommending refusal.'

- The proposal compromises the local distinctiveness and visual amenity of the hillside location, especially when viewed from the harbour and East Portlemouth, View 19 of Policy SALC Env6 Locally Important Views green spaces are intrinsic to this view, adverse impact on visual amenity, iconic view of Salcombe from the water is very important to both locals and visitors, nothing to enhance the view from the water
- No development should be overly intrusive, unsightly or prominent to the detriment of the view, "round room" of Sheerwater deemed a landmark from East Portlemouth as are two Pine trees in the garden of Lower Rocklege, proposed development will be intrusive and prominent and rear side wall on the proposed property will be approximately 3m away from the "Round Room" of Sheerwater
- Interestingly the application excludes any photoshop view of the proposed property from the ria or East Portlemouth, photos that are provided from East Portlemouth are out of date and do not show the current existing landscape
- Harm to conservation area
- Site was wooded before cleared with this development in mind, neighbourhood plan all existing wooded areas visible from the estuary, crammed in an area that currently appears as woodland, completely unacceptable that trees have been removed without approval from the local planning authority
- Enjoyed important trees, should remain fully protected, neighbourhood plan for retention of existing wooded areas and mature isolated trees, apart from proposed building being moved slightly forward from under the canopy of still an issue building directly under
- Little or no confidence in reassurance that the tree roots will not be weakened or damaged by such works.
- Personal experience of branches and detritus falling is a statement of fact and should a building be below such trees puts the building at possible risk and any residents or visitors
- Bartlett Review concludes that you don't look at the trees because you're transfixed by the view, indeed beautiful, but when live and go about your day you are not constantly gazing out to sea, recommendation vertical separation, as roof of proposed property below base of tree would be impossible
- Documents regurgitations of earlier arguments, reminder about key trees not alter position
- The proper protection of the natural function of the woodland TPO 676 W1 – free from further clearance or development - will in time restore the visual amenity and integrity of the site for the benefit of the wider Salcombe community
- On steep bend and 3 way junction
- No public access, access driveway narrow and winding, conflict with pedestrian access
- No additional parking, Stonehanger Court should be considered as independent dwellings capable of changing ownership irrespective of statements from current freeholders, result in one less space for Stonehanger Court, no provision has been made for any visitor parking
- Additional commercial traffic make hazardous section of road
- CMP should be provided as this site lacks road frontage
- Structural Report main frame of the building could be delivered by crane from on top of the site confusing as immediately above the site are two dwellings and no access, vehicular or otherwise, to the site
- Thriving habitat for plants, birds and small animals, loss of natural habitat for a variety of wildlife
- Waste water management plan hinges on delivering rain water to the existing crumbling drain infrastructure, by concreting over green site that was essentially a

natural soakaway this will only exacerbate the town and ria's problems with effluent whenever there is significant rainfall

- Fully support Salcombe Town Council position, representative of actual Salcombe residents

Officer Note

Consultation responses and letters of representation have been summarised for brevity. These can be accessed in full through the Local Planning Authority website.

Officers note that disruption due to building works is transitory in nature and insufficient reason to refuse a proposal in its own right.

Relevant Planning History

| Decision date | Planning application reference | Proposal | Decision |
|---------------|--------------------------------|---|------------------------|
| 11/10/2019 | 0201/19/FUL | READVERTISEMENT (Revised Plans) Construction of new two storey studio | Withdrawn |
| 07/05/2020 | 4159/19/FUL | Construction of new two storey house with ancillary external paths and terraces and renewal of external staircase (Resubmission of 0201/19/FUL) | Refusal |
| 18/08/2021 | APP/K1128/W /20/3260083 | APPEAL OF 4159/19/FUL | Dismissed (Refusal) |

ANALYSIS

Principle of Development and Sustainable Development:

Policy SPT1 of the Plymouth and South West Devon Joint Local Plan (JLP) seeks a sustainable society where sustainable and health-promoting transport options are available to access local education, services, and jobs. JLP Policy SPT2 sets out that development should support the overall spatial strategy through the creation of communities which: have reasonable access to a vibrant mixed-use centre; meets daily community needs for local services such as neighbourhood shops, health and wellbeing services, and community

JLP Policy TTV1 'Prioritising growth through a hierarchy of sustainable settlements' sets out the Council's development strategy across the Thriving Towns and Villages Policy Area for the distribution of growth and development. The policy describes how the settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside will be used to inform whether a development proposal can be considered sustainable. Although the JLP does not define settlement boundaries, the site is located within the Salcombe Neighbourhood Plan area. The supporting text identifies Salcombe as a second tier settlement within 'Smaller Towns and Key Villages' *'which will receive support for growth commensurate with their roles in supporting the small villages and hamlets'*.

JLP Policy DEV8 'Meeting local housing need in the Thriving Towns and Villages Policy Area' seeks high quality homes which widen opportunities for home ownership and creates sustainable communities provided it meets the following provisions:

'1. A mix of housing sizes, types and tenure appropriate to the area and as supported by local housing evidence should be provided, to ensure that there is a range of housing,

broadening choice and meeting specialist needs for existing and future residents. The most particular needs in the policy area are:

i. Homes that redress an imbalance within the existing housing stock.

ii. Housing suitable for households with specific need.

iii. Dwellings most suited to younger people, working families and older people who wish to retain a sense of self-sufficiency.

2. Within rural areas with special designations, as defined in section 157 of the Housing Act 1985, all residential developments of 6 to 10 dwellings will provide an off-site commuted sum to deliver affordable housing to the equivalent of at least 30 per cent of the total number of dwellings in the scheme.

3. Within the whole policy area a minimum of at least 30 per cent on-site affordable housing will be sought for all schemes of 11 or more dwellings. Off-site provision or commuted payments in lieu of on-site provision will only be allowed where robustly justified.'

Policy SALC H2 Market Housing of the Salcombe Neighbourhood Plan offers support for open market housing on infill sites within the settlement boundary that fulfil the following requirements:

'a) Development is delivered in line with JLP Policy DEV8 together with a minimum 30% provision of affordable housing.

b) The type of housing responds to local housing needs as defined in the latest Housing Needs Survey;

c) As part of the above consideration should be given to provision of housing solutions for the increasing number of elderly in the Parish in the form of market sale sheltered, extra care or assisted living housing;

d) By further consideration of the elderly above this Plan also supports opportunities for existing residents to downsize and make more larger units available to the market.'

In response to JLP Policy DEV8 and Policy SALC H2, the housing mix data for the parish of Salcombe indicates a shortfall of 2 bedroom or less dwellings. The proposal would create an additional 2 bedroom dwelling and would thereby provide a greater number of smaller dwellings above that of the existing housing stock. This would respond to local housing needs and redress an imbalance within the existing housing stock and is considered to meet the requirements of Policy SALC H2 and JLP Policy DEV8 by way of the housing market needs of the area.

Officers consider that the proposal offers provision for accessible accommodation, including for those with disabilities or for whose mobility is impaired by other circumstances. This could meet the specific needs for older people who wish to retain a sense of self-sufficiency and is considered to be generally consistent with JLP Policy DEV8 by way of mix of housing types. However, the proposed floor space at approximately 590sqm is well in excess of the minimum gross internal floor area required to meet National Described Space Standards (79m² + 2 m² built in storage for a detached 2 storey 2 bedroom property for 4 people). This does not align with the spirit of offering housing solutions for the increasing number of elderly in the Parish and would not necessarily enable existing residents to downsize and is thereby not considered to meet the requirements of Policy SHALC H2 with particular reference to part c and d.

As a final note, Policy SALC H3 Principal Residence requires Section 106 agreement or other planning obligation to ensure new open market housing occupancy as a Principal Residence. Due to the recommendation for refusal on other grounds, it was not considered expedient to secure this during the life of the application.

Although the proposal does not meet the planning policies completely, based on the information submitted and the site context, officers consider that the principle of residential development in this location is acceptable and accords with JLP Policies TTV1, DEV8 and Policies SALC H2 and H3, subject to Principal Residency being secured.

Design:

JLP Policy DEV20 'Place shaping and the built environment' requires that development proposals '*meet good standards of design, contributing positively to both townscape and landscape, and protect and improve the quality of the built environment*'. This seeks to promote high standards of design and requires proposals to have regard to the range of factors which help achieve high quality places, with particular consideration of the local context, development pattern, and design elements.

Neighbourhood Plan Policy SALC B1 'Design Quality and safeguarding Heritage Assets' requires new development to demonstrate high quality design, this makes reference to development proposals being in keeping with the area within which it is located and respond to and integrate with the local built surroundings, landscape context setting. Of relevance to this application, it notes that a contemporary design solution would be supported providing it respects the context and setting.

It is proposed that the dwelling be set into the steep hillside, in line with the surrounding properties, and represents a significant intervention on the site. The proposed design has a horizontal emphasis with large expanses of full height glazing, projecting bays of contrasting materials, connect two storey balconies with glass balustrading, and approximately 13m lift shaft with elevated walkway connecting to the adjoining parking area.

There have been previous proposals for the erection of a dwelling on the site. This scheme represents a material change to the previous application and the considerations are materially different.

The supporting documents explain that this proposal has been resited and altered to a kidney bean shape to move development away from the trees on and off site in an attempt to minimise conflict. When compared with the previous proposals, the size and scale of the current scheme has been enlarged from approximately 445 sqm (previous application) to 590 sqm (current application). As a consequence, the proposed massing and visual impact has been increased. Where the previous scheme had a fairly compact form and minimalist style, the current scheme is much more expansive and spread across the site.

Whilst a contemporary design is not necessarily prohibited in this location, the unusual curved footprint, proportions and roofline is at odds with the form of the surrounding properties. This is exacerbated by the assortment of incongruous features including: alien corten steel projecting bays, industrial high level walkways and associated support structure and railings, cluttered fenestration pattern, and tall projecting lift shaft uncomfortably close to the neighbouring property to the rear. This lacks harmony and is discordant in its own design, and does not reflect the local vernacular character. This fails to integrate with the local built surroundings or respect the site context.

As such, the proposal is considered to be contrary to the provisions of JLP Policy DEV10, DEV20, and Neighbourhood Plan Policy SALC B1 and is therefore considered to be unacceptable.

Landscape:

JLP Policy DEV23 'Landscape character' requires proposals '*conserve and enhance landscape, townscape and seascape character and scenic and visual quality, avoiding significant and adverse landscape or visual impacts*'. The site is located within the South Devon Area of Outstanding Natural Beauty which is afforded the highest statutory landscape protection. JLP Policy DEV25 'Nationally protected landscapes' requires that proposals '*conserve and enhance the natural beauty of the protected landscape with particular reference to their special qualities and distinctive characteristics or valued attributes*'.

The AONB Management Plan, with particular reference to Theme 9 Planning and Sustainable Development, sets out that development management decisions '*will give great weight to the purpose of conserving and enhancing the natural beauty of the South Devon AONB; and support development that is appropriate and proportionate to its setting within or adjacent to the South Devon AONB by seeking to avoid, minimise or as a last resort compensate, for harm to the special qualities and distinctive characteristics of the AONB*'.

Neighbourhood Plan Policy SALC ENV7 'Maintaining the character, density, and green infrastructure in key areas' sets out policy areas A and B where development will only be permitted where '*such development would not detrimentally impact on the character of the existing low density development, mature gardens and trees in these areas*'. The site is located within policy area B. Furthermore Neighbourhood Plan Policy SALC ENV1 'Impact on the South Devon Area of Outstanding Natural Beauty' requires that all development proposals demonstrate they satisfy the following criteria: '*maintain the intrinsic character of the landscapes, townscape and seascape affected*'; '*visual and environmental impact on the AONB... assessed and minimized*'; '*regard to the guidance on development in the AONB Management Plan and AONB Planning Guidance*'.

The character of this area between Devon Road and Cliff Road is of well vegetated green garden spaces where built form is absent between dwellings and apartment buildings that collectively provides valued, linear, green gaps on the hillside. Incremental development has encroached these spaces, visibly altering the balance of the proportion of green space to built form, eroding the low density character of this part of the town. However, the proposed site remains well vegetated and is a significant area of green space which is particularly evident in wider views of the town, including from across the estuary. This heightens the sensitivity of the site.

The council's landscape specialist raises in-principle concerns regarding introducing development onto the site which would remove a significant area of green space and would have a transformative impact on the locally distinctive character of well vegetated green spaces across the hillside and the density of policy area B which is particularly evident in wider views of the town, including from across the estuary.

As previously noted, there have been previous proposals for the erection of a dwelling on the site. This scheme represents a material change to the previous application and the considerations are materially different.

The proposed increased size, scale, massing and distribution of development across the site would have resultant impact on the verdant character and spaciousness of this area. There is lack of separation distance from neighbouring dwellings and the spread of development across the site fails to sympathetically respond to the topography of the site and demonstrates the limitations of the site.

The council's landscape specialist highlights paragraph 6.3.1.2 of the neighbourhood plan which states '*The character of Salcombe has been damaged by development that has not reflected settlement pattern, local materials or design. The cumulative impact of many small scale changes is being strongly felt across the Parish. Approaches to change that respect distinctive local character are increasingly needed to avoid increasing cumulative impacts*'. The council's landscape specialist raises concerns that, although the proposal is relatively small scale development in the context of the whole town, the proposed scheme fails to reflect the distinctive local character of the settlement with regards to the form, design, proportions, materials and features which is particularly evident in wider views of the town, including from across the estuary. This would result in incongruous development that would deteriorate the character and local distinctiveness of the town and result in cumulative adverse effects that would undermine the special qualities of this area.

In addition to the large glazed openings, there are concerns regarding addition of ancillary external lighting which would result in the inevitable additional impact of artificial lighting on natural nightscapes and dark night skies which are a key quality of the AONB.

In this case, it is not considered that the development would conserve the special qualities and distinctive characteristics of the area with particular reference to the incongruous form, design, fenestration pattern, palette of materials and verdant character of the hillside, and it is not demonstrated how the development would offer enhancement to the special qualities of the AONB, contrary to the provisions of JLP Policies DEV23 and DEV25, neighbourhood plan policy SALC ENV1, and the AONB Management Plan and its supporting documents. Further, the proposal would have a detrimental impact on the density of development, mature gardens, and trees of policy area B, contrary to the provisions of neighbourhood plan policy SALC ENV7. The proposed scheme is considered to contravene the provisions of the local development plan and neighbourhood plan and is therefore considered to be unacceptable.

Trees:

JLP Policy DEV28 'Trees, woodlands and hedgerows' states that development will not be permitted where it would result in the loss or deterioration of the quality of woodlands or high amenity trees including protected trees unless the need for, and benefits of, the development in that location clearly outweigh the loss and this can be demonstrated.

Part of the site has previously been subject to a woodland Tree Preservation Order (TPO). The proposal seeks to erect a two storey dwelling that would encroach upon two protected TPO Black Pine trees to the rear. These have umbrella shaped crowns and light canopy structure. The base of the trees would be above the proposed house.

There have been previous proposals for the erection of a dwelling on the site. This scheme represents a material change to the previous application and the considerations are materially different.

The supporting documents explain that this proposal has been resited and altered to a kidney bean shape to move development away from the trees on and off site in an attempt to minimise conflict.

The council's arboricultural specialist highlights that '*The fundamental variance to be considered in arboricultural terms between the two schemes appears to be the new building form and location that seeks to create an improved relationship between the prominent off site trees and the proposed new dwelling below.*' '*A degree of increased separation to the South East has been proposed however the basic premise of officer concerns remains in*

respect of the presence of the large mature trees growing at an elevated position above what would be a highly intensified usage of the present unused garden area of the site’.

The council’s arboricultural specialist explains that *‘inevitable dissatisfaction will arise with the trees as they pass through life stages with new occupiers of the dwelling through its various tenures. This dissatisfaction will evidence as a growing fear of harm and likely apprehension given the size and height of the trees above the property. Matters of branch failure, fear of whole tree failure, accumulation of seasonal debris fall, the height of the trees as a combination of their intrinsic height added to their heights of emergence above the site will combine to lead to inevitable requests for pruning or felling.’ ‘Where works would be unlikely to be requested at present given the nature of the land use, it is highly likely that an accelerating level of works would be required at an unknown date by a future occupier with a differing view on trees or with a differing risk tolerance threshold.’ ‘Any works upon a tree that has been allowed to grow freely into a self-optimised structurally sound form given the site weather, topography, biotic and abiotic factors and so on would inevitably lead to a cycle of life shortening crown decline beyond the natural slow progression into maturity as would occur if left unpruned. This decline could manifest through the entry of wind into previously sheltered internal tree parts and a reduced vigour due to lessened photosynthetic area which would reduce the trees abilities to assimilate and store necessary products of photosynthesis for the resistance of disease and formation of wound wood if branches are damaged during inclement weather events.’ ‘Any TPO application that would be made would be required to be determined mindful of the new set of circumstances (approved dwelling) which would then be difficult for the Local Authority to refuse works that would be refused previously based upon no approved dwelling below. This situation would be carried through to any appeal against an adverse decision’. ‘The trees have been subject to a number of safety inspections by the appointed arborist, which find them to be sound and free from readily identifiable defects. This has not been disputed at any point through planning applications against this site and provides a level of surety that the trees will remain as positive visual attributes within the AONB and coastal sylvan setting through their natural life spans if allowed to grow unchecked and without increasing pressure to prune or fell’.*

In relation to the additional submitted information the council’s arboricultural specialist notes *‘Peer review of arboricultural survey work, Tree Specialist comments and the Appeal Inspectors decision has been made by a further arboricultural consultancy. I have read the additional documents derived as a consequence of this review but consider that no additional or weighted expansion upon previous information is brought forward that would allow variance of my officer recommendation of objection made to the previous scheme’.*

It is considered that, despite the resiting, the proposal would result in pressure leading to accelerated tree decline and removal would be a predictable consequence of consent and that such fear would be foreseeable, rational and reasonable, contrary to the provisions of JLP Policy DEV28.

Further, as previously noted, their decline and removal would contravene Neighbourhood Plan Policy SALC ENV7 ‘Maintaining the character, density, and green infrastructure in key areas’ whereby development in policy area B will only be permitted where *‘such development would not detrimentally impact on the character of the ... mature gardens and trees in these areas’.*

The council’s landscape specialist also notes that the loss of these visually prominent pine trees would be in conflict with the requirement to conserve and enhance the natural beauty of

the landscape and special qualities of the AONB as set out in JLP Policies DEV23 and DEV25.

Moreover, the proposed walkway structure appears to run within the canopy of unprotected smaller and larger trees on the site. Insufficient information has been submitted to demonstrate how those trees might be expected to grow, their relationship with the structure and its construction. It appears highly likely there would be conflict between them, given the requirement for construction and the likelihood of detritus on the walkway from the trees, leading to pressure for further removal.

As such, the proposal is considered to be contrary to the provisions of JLP Policy DEV28 and Neighbourhood Plan Policy SALC ENV7, and is therefore considered to be unacceptable.

Highways and Access:

JLP Policy DEV29 'Specific provisions relating to transport' sets out provisions for development proposals to '*contribute positively to the achievement of a high quality, effective and safe transport system in the Plan Area*'.

The County Highway Authority (Devon County Council (DCC)) have raised concerns relating to '*the existing access affords only 9m 'y' distance visibility from an 'x' distance of 2.4m in a north easterly direction*'. Taking into account the road speed and uphill gradient, they conclude '*the 9m available 'y' distance at the access is substandard by approximately 12m, which in this case is a 55% reduction in the recommended national standards*' and '*the increase in use of the access is likely to be of detriment to the safety to existing road users*', leading them to recommend refusal. It is considered that the proposal therefore contravenes DEV29.2 which seeks '*safe and satisfactory traffic movement and vehicular access to and within the site*'.

Further, DEV29.3 seeks '*sufficient provision and management of car parking in order to protect the amenity of surrounding residential areas and ensure safety of the highway network*'. Neighbourhood Plan Policy SALC B1 'Design Quality and safeguarding Heritage Assets' requires infill development to make adequate provision for onsite car parking and states that no increase in demand for on street parking would normally be supported.

The Plymouth and South West Devon Supplementary Document (SPD) expands on this and sets the indicative parking provision for new residential development as 2 spaces per 2 bedroom dwelling to avoid adverse impacts of inadequate parking such as excessive on-street parking or illegal parking.

The proposal does not propose the creation of new parking provision and instead offers reallocation of parking spaces associated with Stonehanger Court. Insufficient information has been submitted to demonstrate how this accords with the relevant policy considerations.

As such, the proposal is considered to be contrary to the provisions of JLP Policy DEV29, Neighbourhood Plan Policy SALC B1, and the SPD, and is therefore considered to be unacceptable.

Drainage:

JLP Policy DEV25 'Managing flood risk and water quality impacts' explains how the LPAs '*will assist the Lead Local Flood Authority in the management of flood risk and water pollution within the Plan Area by directing development away from areas at highest risk, but where development is necessary ensuring that it is safe without increasing flood risk and pollution*

elsewhere'. DEV25.8 states '*Development will not be permitted without confirmation that sewage / wastewater treatment facilities can accommodate or will be improved to accommodate the new development, in advance of the development taking place*'.

The proposal seeks to discharge surface water to public sewer using private surface water and combined sewer, and seeks to discharge foul water by public combined sewer by private combined sewer. The applicant has not explained why it is not possible to follow the Runoff Destination Hierarchy of drainage. However, confirmation this is acceptable to South West Water has been received and no comments have been received from the Council's Drainage Specialists. This is considered to accord with the provisions of JLP Policy DEV25.

Ecology:

JLP Policy DEV26 'Protecting and enhancing biodiversity and geological conservation' sets provisions to ensure development proposals '*support the protection, conservation, enhancement and restoration of biodiversity and geodiversity across the Plan Area*' that includes '*level of biodiversity net gain required will be proportionate to the type, scale and impact of development*'. The SPD expands on this seeking 10 per cent biodiversity net gain in line with the government's ambitions.

The applicant has submitted two preliminary ecology appraisals that indicate there should be no detrimental impact on protected and/or priority species, designated sites, important habitats or other biodiversity features, features of geological conservation importance and offers ecological enhancements. As such, this aspect of the proposal is considered to comply with JLP Policy DEV26.

However, the site is located within the Cirl Bunting 2km Buffer Zone. The SPD explains '*Cirl Buntings are a rare species in the UK (reflected by inclusion as a s41 Priority Species, listing on Schedule 1 of the Wildlife and Countryside Act, 1981, on the Red list as a species of high conservation concern, and a Devon BAP Priority Species) with a very restricted range, most of the population occurring within South Devon*'. It continues '*In areas where there are historic records of Cirl Buntings breeding territories, or where suitable habitat is present on a development site, the developer and the LPA will either need to accept presence of Cirl Buntings and agree on the level of presence or undertake specific Cirl Buntings surveys, in accordance with the Wildlife and development guidance note: Cirl Bunting (2017)(281), or the latest iteration thereafter*'. It continues to discuss compensatory habitats.

The resubmitted 2018 ecological appraisal notes '*Within 500m, the community is surrounded by estuarine habitats including areas of mudflats, and to the north-west, arable and pastoral fringes where good Cirl Bunting habitat exists*'. It continues later '*The Site is covered by recorded Cirl Bunting ranges, although breeding distribution is likely to be restricted to the north-west fringe of the community, approximately 0.5km away, breeding sites are buffered with 250m zones which indicate potential ranging when provisioning. Winter ranging may take place up to 2km from these sites. The habitat found on Site may therefore be valuable to these birds even if they have not been recorded as breeding on Site*'. It concludes '*There is no suitable habitat for Cirl Bunting nesting on Site, although this species may range through the Site when foraging in winter. It is far more likely, however, that winter foraging takes place on the arable margins along the fringe of the community*'. However, the submitted 2022 Ecology Report fails to address this and it is unclear whether circumstances have changed since then. As such, this aspect of the proposal not considered to accord with JLP Policy DEV26. Overall, the proposal is not considered to fully comply with the provisions of JLP Policy DEV26 but is not of sufficient weight to warrant a refusal on this basis.

Neighbour Amenity:

JLP Policy DEV1 'Protecting health and amenity' requires that development *proposals* 'safeguard the health and the amenity of local communities' with specific reference to 'satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance'. DEV1.1 concludes 'Unacceptable impacts will be judged against the level of amenity generally in the locality'.

Due to the prevalence of balconies, topography, density and relative siting of dwellings in this part of Salcombe, there is a degree of mutual overlooking between neighbours at present. On this basis, Officers do not consider that the proposal would result in a significantly harmful increase in overlooking or noise and disturbance at height, over and above that of the existing arrangement so as to warrant a refusal solely on this basis. As such, this aspect of the proposal is considered to comply with the provisions of JLP Policy DEV1.

Climate Emergency:

South Hams District Council and West Devon Borough Council have declared a Climate Emergency, committing to aiming for net zero by 2030. JLP Policy DEV32 'Delivering low carbon development' sets out the aims of the Plan Area to halve 2005 levels of carbon emissions by 2034. Officers note the application was submitted prior to the adoption of the Climate Emergency Planning Statement that sets out requirements to reduce carbon emissions (Mitigation Measures) and measures to help us live with the impacts of climate change (Adaptation Measures).

The submitted supporting documents indicate that the proposal has been designed to take advantage of solar gain, would be highly insulated, and includes provisions for air source heat pump and solar PV panels to the roof. Insufficient information has been received to confirm capacity of 1kWp, the provision of a battery, or electric vehicle charging points.

Dev32.1 notes that development proposals should seek to '*minimise the use of natural resources in the development over its lifetime*'. Further JLP Policy DEV2 'Air, water, soil, noise, land and light' explains that development proposals that cause unacceptable on or off site harm to the natural environment individually or cumulatively will not be permitted. DEV2.6 includes provision to '*Protect soils, safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources*'. This recognises the importance soil resource plays in carbon storage and that soils '*support biodiversity, sequester carbon and absorb water and play an important role in capturing carbon, providing sustainable drainage, as well as increasing resilience to extreme weather event. The loss of soil cover to impermeable surfaces has numerous detrimental impacts which erode their important role in addressing the climate emergency*'.

Insufficient information has been submitted to demonstrate how the proposal seeks to address this.

As such, the proposal is not considered to fully comply with the provisions of JLP Policy DEV21 and Neighbourhood Plan Policy SALC B1 but is not of sufficient weight to warrant a refusal on this basis.

Other Matters:

Heritage:

JLP Policy DEV21 'Development affecting the historic environment' sets out provisions that requires development proposals 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 site is located within the Salcombe Conservation Area Buffer Zone.

The Salcombe Conservation Area Appraisal (2010) highlights the structure provided by the trees to the landscape and their contribution to the aesthetic value of the area, with specific reference to the greenery along Devon Road. Officers are mindful that Section 16 of the NPPF acknowledges that impact on the setting of a Conservation Area can be a material planning consideration. It is considered that the verdant nature of the site and the TPO trees makes a positive contribution to the setting of the Salcombe Conservation Area. The loss of this would fail to conserve the setting of the designated heritage asset.

As such, the proposal is not considered to fully comply with the provisions of JLP Policy DEV21 and Neighbourhood Plan Policy SALC B1 but is not of sufficient weight to warrant a refusal on this basis.

Principal Residency:

If the application were otherwise recommended for approval, Policy SALC H3 Principal Residence requires Section 106 agreement or other planning obligation to ensure new open market housing occupancy as a Principal Residence. The Neighbourhood Plan group are currently working on amendments to the Neighbourhood Plan and the mechanism to secure this may change in future.

Other:

Officers have endeavoured to work proactively and positively with the applicant, facilitating in person discussions with the applicant and specialist consultees to seek the potential for resolution through a revised scheme. Due to the policy conflicts and in principle objections that would prohibit such development on this site, these matters were not resolved and the application has been determined based on the plans and details submitted with the application when validated as per the adopted Planning Customer Charter. The determination of the application was delayed as the agents sought attention of heads of service and councillors.

Conclusion:

Whilst the principle of development in this location is acceptable, the overall acceptability of the application is subject to accordance with the development plan and other relevant JLP Policies.

The proposed scheme in terms of its scale, form, design, massing, fenestration pattern and features is such that the development lacks harmony and fails to integrate with the local built surroundings and respect the site context. This would have a transformative effect on the verdant character of the site, spaciousness of the area and density of development. This fails to conserve or enhance the special qualities and distinctive characteristics the AONB and setting of the Conservation Area, contrary to the provisions of JLP Policies DEV10, DEV20, DEV21, DEV23 and DEV25, and Neighbourhood Plan Policies SALC B1 and SALC ENV1, and the AONB Management Plan and its supporting documents.

The proposed development by virtue of its siting and proximity to 2 Corsican Pine Trees subject to a Tree Preservation Order (TPO) (TPO reference 1010, identified as T1 and T2) would result in foreseeable, rational and reasonable fear of harm and increase the likelihood

of application prune or fell the protected trees, contrary to the provisions of JLP Policies DEV28 and DEV25, BS5837: 2012 Trees in Relation to Design, Demolition & Construction, and Neighbourhood Plan Policy SALC ENV7.

The proposed development would be likely to result in an increase in the volume of traffic entering and leaving the Class C County Road through an access, which does not provide adequate visibility from and of emerging vehicles, and insufficient information regarding the provision of parking, contrary to provisions of paragraphs 110 and 112 of the National Planning Policy Framework and JLP Policy DEV29, Neighbourhood Plan Policy SALC B1, and section 8 of the Plymouth and South West Devon Supplementary Document (SPD).

The proposal does offer a further unit of accommodation that would contribute to the supply of homes across the plan area and weighs in favour of the development, however, the council can demonstrate a 5 year land supply and, by its nature, this is a modest contribution that is outweighed by the harm identified to the nationally protected landscape of the AONB, the protected trees, and character of the surrounding area. On balance, the proposal gives rise to detrimental impacts that renders the proposal unacceptable and the application is recommended for refusal.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Relevant policy framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019 confirming the change.

On 14th January 2022 the Department for Levelling Up, Housing and Communities published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% and the consequences are "None".

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 5.97 years at end of March 2022 (the 2022 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2022 (published 19th December 2022).

[*now known as Department for Levelling Up, Housing and Communities]

The relevant development plan policies are set out below:

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

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
SPT3 Provision for new homes
SPT12 Strategic approach to the natural environment
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
DEV9 Meeting local housing need in the Plan Area
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV23 Landscape character
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

Neighbourhood Plan

SALC ENV1 Impact on the South Devon Area of Outstanding Natural Beauty
SALC ENV5 Maintaining the character and environmental quality of the estuary
SALC B1 Design Quality and safeguarding Heritage Assets
SALC T1 Car and trailer parking in Salcombe
SALC H2 Market Housing
SALC H3 Principal Residence requirement for new housing

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:
South Devon AONB Management Plan (2019-2024)
Plymouth and South West Devon Supplementary Development Plan (SPD) (2020)
Salcombe Conservation Area Appraisal (2010)

Considerations under Human Rights Act 1998 and Equalities Act 2010

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

The above report has been checked and the plan numbers are correct in APP and the officers report. As Determining Officer I hereby clear this report and the decision can now be issued.

Name and signature: BRH

Date: 19.07.2023