

OFFICER'S REPORT

Case Officer:	Charlotte Howrihane		
Parish:	Salcombe	Ward:	Salcombe & Thurlestone
Application No:	4036/23/FUL		
Applicant:	Mr Peter Williams Flat 6 Stonehanger Court Devon Road Salcombe TQ8 8HJ	Agent:	Mr Richard Pain Richard Pain Architect The Loft Chillington Kingsbridge TQ7 2LW
Site Address:	Land adjacent to Stonehanger Court, Devon Road, Salcombe		
Development:	Construction of a two storey house		

Recommendation: Refusal

Reasons for refusal:

1. The proposed development by virtue of its siting and proximity to the 2no. off-site Corsican Pine Trees (identified as T1 and T2 in Tree Protection Order Ref: 1010) would be likely to amplify fear of harm from any future occupiers and would likely give rise to pressure upon the tree owner to inappropriately prune or fell the aforementioned third-party trees earlier in their lifespan than if the present land use was continued. This would be contrary to the public visual amenities of the local and wider landscapes as presently contributed by the subject trees which are considered well-formed examples of evergreen species that are highly tolerant of coastal conditions, and which positively contribute to the setting of the townscape within the South Devon National Landscape and visual landscape generally. The proposal therefore conflicts with policy DEV28 of the Plymouth & South West Devon Joint Local Plan (2019- 2034), policies SALC Env5 and SALC B1(f) of the Salcombe Neighbourhood Development Plan (2018- 2034), and paragraph 136 of the National Planning Policy Framework (2023).

Key issues for consideration:

Principle of development, design, landscape impact, trees, residential amenity, highways

Site Description:

The site is a narrow plot of approximately 1 acre located off Devon Road, in the grounds of Stonehanger Court, in the residential area of Salcombe. The site is cut into the side of a steep hill with distinct site topography that slopes steeply downwards in a north-south and west-east direction. The site comprises mostly low ground cover plants with some small shrubs, few larger bushes, and a number of trees to the northern and western boundaries

of the site. There remains some remnants of wall terracing, steps and paths within the undergrowth. The site is surrounded by developed sites and access is obtained via an existing gravelled stepped path from the lower Stonehanger Court car parking area. The site is located above the Salcombe and Kingsbridge estuary.

The site is located within the South Devon National Landscape (formerly known as the Area of Outstanding Natural Beauty), Salcombe Neighbourhood Plan Area, Salcombe Conservation Area Buffer Zone, Cirl Bunting 2km Buffer Zone, and SSSI Impact Risk Zone (not related to triggers). There are a number of TPOs on and off site including, but not limited to: W1 TPO Ref 676; T1 TPO Ref 1010 –Corsican Pine; T2 TPO Ref 1010 – Corsican Pine.

The Proposal:

The application seeks to construct a two-storey dwelling, built into the sloping site. A level access walkway would be constructed from the parking area to a lift, which provides step-free access to both levels of the house. There would also be a new external staircase from the parking area to the dwelling.

The house would be a flat roof design, clad in stone. A green roof is proposed, which would also be designed as a blue roof to retain water and control any water discharge runoff rate.

Consultations:

- Highways Authority- initial concerns overcome by submission of additional information. Conditions requested
- Environmental Health- no objections
- Tree Officer- objection, details in analysis
- Landscape Officer- objection, details in analysis
- Salcombe Town Council- objection: *'The site sits in Character and Density Policy Area B where development is only permitted where such development would not detrimentally impact on the character of the low density development, mature gardens and trees in the area. Substantial spacing between properties is an inherent and attractive attribute to this area. This proposal is contrary to this policy. The land is previously undeveloped and is a useful green, landscaped space which separates large developments nearby.'*

Policy SALC B1 requires proposals to demonstrate high quality design in keeping with the area within which it is located. It needs to respond to and integrate with local built surroundings, landscape, context and setting. Contemporary design is supported providing it respects context and setting. The design should respect the scale and character of existing and surrounding buildings. High quality materials that complement the local and traditional palette of materials are required. This proposal is not in keeping or in scale with surrounding buildings. It deliberately contrasts with the local built surroundings and does not respect the context and setting. The materials do not compliment the local palette or detailing of the surrounding buildings. The proposal is therefore contrary to this policy.

The existing green space provides an open landscape feature. If developed this will further concentrate the built environment without green spaces between, having a detrimental impact on the low density area and mature gardens. This is contrary to Policy ENV 5 and 7 of the Neighbourhood Plan.

If approved a Construction Management Plan will need to be looked at meticulously because build vehicles will require access along a single track driveway and additional contractor's vehicles and parking will cause chaos to other flat owners and will spill onto Devon Road at a very awkward junction. The proposal does not maintain the intrinsic character of the hillside and would have an adverse impact on AONB. This is contrary to Policy ENV 1.

No additional parking is provided for the new dwelling. Occupants would use an existing garage and an existing parking space thus reducing car parking for the other dwellings on site contrary to JLP Policy DEV29 and NP Policy SALC B1.

Policy SALC H3 ensures new open market housing will only be supported where there is a planning obligation to ensure its occupancy as a principal residence. New unrestricted homes will not be supported at any time without this restriction and this must be the case here. It appears that this development is a developer project with no social benefits. This is not a house suitable for permanent residence restrictions so may be unviable. The proposals should be vigorously opposed and the application refused.'

Representations:

Ten letters of representation have been received- eight objecting, and two undecided/comments. The representations can be seen in full on the Council website, but can be summarised as follows:

- The house would be a substantial size
- Infill development
- The applicant already owns a number of properties in the vicinity of the site and so this is clearly a commercial proposition
- Access is via a sharp bend onto Devon Road
- Views from East Portlemouth will introduce a building into an existing green space
- Application states that trees was the only previous reason for refusal but the appeal Inspector also concluded that there would be harm to the AONB and Conservation Area
- The repositioning of the house does not overcome the previous concerns
- The Council's Tree Officer has repeatedly raised concerns which remain applicable
- The site is an area of open green space which has aesthetic value
- Fails to preserve or enhance the AONB
- The applicant would be better to plant trees, landscape the site, and provide biodiversity enhancements
- Reduction in parking as the proposed parking would reduce a space available at Stonehanger Court
- Overbearing
- Out of keeping with the local area
- No dimensions on plans make it hard to assess
- No indication of height

- Substantial spacing between dwellings is a feature of the area
- Inconsistent and erroneous information submitted
- Layout plan is inconsistent and site boundary is wrong
- Drainage system is already at capacity
- Not clear if the dwelling would be occupied as a principal residence
- The site is within an important view identified in the neighbourhood plan and green spaces are intrinsic to this view
- Contrary to various neighbourhood plan policies
- Pre-app support for the proposal pre-dates the neighbourhood plan
- Protected trees have previously been removed from the site
- Disingenuous to claim this is a 2 bed property given the footprint of the dwelling
- Weather patterns are likely to change with climate change
- It should be confirmed that the development complies with the Party Wall Act
- Tree branches have previously come down at Sheerwater, which are exposed to similar weather as the trees in question for this application

Relevant Planning History

- 0381/16/PRE- Pre-application enquiry - Minor - New single house
- 0560/16/PRH- Pre application for proposed new single dwelling- principle support given
- 0052/19/TPO- T1: Holm Oak - Crown reduction of 3m height and 1m side;T2: Beech - Crown reduction of 2m height and 1m side- refused
- 0201/19/FUL- Construction of new two storey studio house- withdrawn
- 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)- refused (appeal dismissed)
- 2831/22/FUL- Construction of a two storey house- refused

ANALYSIS

Background:

The site has been subject to several previous applications for a dwelling on the site. They were preceded by a pre-application enquiry in 2016, which provided support for the principle of a dwelling on the site.

Application 4159/19/FUL was refused in 2019 for the following reason:

'The proposed development by virtue of its siting and proximity to the 2no. off-site Corsican Pine Trees (identified as T1 and T2 in Tree Protection Order Ref: 1010) would likely amplify fear of harm from any future occupiers and would likely give rise to pressure upon the tree owner to inappropriately prune or fell the aforementioned third-party trees contrary to the public visual amenities of the local and wider landscapes as presently contributed by the subject trees which are considered well-formed examples of evergreen species that are highly tolerant of coastal conditions, and which positively contribute to the setting of the townscape within the AONB and visual landscape generally.'

Further, the offer by the applicant to engage into an s106 agreement between the current landowner and the owner of the third-party Corsican Pine Trees T1 and T2 as a means of mitigation is not considered a suitable vehicle nor remedy to the risks / detriment posed, as set out in the relevant section of the officer's report.

As such, in the interests of preserving the significant public visual amenity benefits of the prominent subject trees which serve to add extensive varied amenity benefits as large sylvan features to the wider sylvan setting of estuary/ harbour mouth locality, as amplified by the steeply falling topography and paucity of blocking features, the proposal, on balance and in consideration of its limited social and economic benefits, is not deemed acceptable.'

This decision was subject to an appeal, which was dismissed, with the Inspector agreeing with the Council's position.

A subsequent application was submitted in 2831/22/FUL, which was refused for three reasons:

- 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).*

This decision was not appealed.

Principle of Development/Sustainability:

The Joint Local Plan (JLP) is a spatial plan, and policy TTV1 of the JLP sets out a settlement hierarchy, to prioritise growth in the most sustainable settlements.

The policy identifies the most suitable locations for growth through a settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside. Paragraphs 5.8-5.10 of the supporting text to Policy TTV1 of the JLP identify the 'Main Towns', 'Smaller Towns and Key Villages' and 'Sustainable Villages' within the Thriving Towns and Villages Policy Area.

Salcombe is identified as a tier 2 settlement (Smaller Towns and Key Villages) which provide a more limited range of services than the Main Towns, but nevertheless play an important role in supporting the dispersed villages and hamlets that are located throughout the rural areas, and which sustain a large number of rural communities. In order to maintain their function, a proportionate amount of new growth is appropriate to ensure that services and facilities are not lost, but can be sustained and enhanced where appropriate.

The site is also within the Salcombe neighbourhood development plan area (NDP). The NDP designates a settlement boundary, where policy SALC H2 permits market housing on infill sites, subject to the following requirements:

- a) *Development is delivered in line with JLP Policy DEV8 together with a minimum 30% provision of affordable housing.*
The proposal is for a single dwelling and therefore does not meet the threshold for affordable housing contributions.
- b) *The type of housing responds to local housing needs as defined in the latest Housing Needs Survey;*
The latest census date from 2021 shows that the number of two bed dwellings in Salcombe is lower than the district average, and the provision of a two bed dwelling would therefore respond to an identified need.
- 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;*
The proposal is a single dwelling which does meet the need for smaller units in Salcombe and across the district. Whilst it includes features such as a lift to provide level access to the car park, and is designed to be accessible, it is not specifically meeting a need for elderly people.
- 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.*
The proposal would provide a smaller open market unit.

Policies SPT2(4) and DEV8(1) of the JLP seek to provide a good balance of housing types and tenures to support a range of household sizes, ages, and incomes, and to meet identified housing needs. As referenced above, Salcombe has a lower proportion of two-bed dwellings than the district average, and so the proposal would be policy compliant in terms of housing mix.

Policy SALC H3 of the NDP requires all new open markets dwellings to include a principal residence occupancy condition. The policy permits this to be imposed either through a planning condition, or a Section 106 agreement. The NDP is currently proposing a modification to require this to be agreed through a Section 106 agreement, although this

modification is not advanced enough that it can be given significant weight in the decision-making process. As such, the restriction could still currently be secured through condition, which would have been imposed had the proposal been considered acceptable in all other regards.

Overall, the principle of the development is acceptable, the development accords with policies SPT1, SPT2, TTV1, and DEV8 of the JLP, and policies SALC H2 and H3 of the NDP.

Space standards:

New residential development is required to provide for adequate internal space standards. The proposal seeks to provide for a 2-bedroomed property over two floors with 2 double bedrooms (2B4P). As such, the proposal requires a minimum floor space of 79sqm which the proposal comfortably provides for.

It is noted that the site has a steep topographical change which may cause problems when seeking to provide for amenity space. However, the proposal will provide for a generous amount of terraced areas both at ground and first floor levels. In addition, it is noted that the application site, being within a coastal town, will have access to beached areas and there exists two areas of green / open space within close proximity to the application site along Herbert Road to the west and Fortescue Road further to the west. As such, there is considered ample amount of open / green space areas to serve the proposal.

As such, the proposal is not considered likely to give rise to any significant, detrimental amenity impacts upon the living conditions of neighbouring residents. The proposal therefore provides sufficient space in terms of policy DEV10 of the JLP.

Design:

The design remains largely unchanged from the previous applications. With regard design considerations, the previous Officer report noted the following:

'The application proposes the erection of a two-storey dwelling which will be set-in to the steep landscape that constitutes the site area.

It is noted that within the immediate vicinity, a similar construction method has been undertaken, whereby as a means of avoiding / minimising the re-modelling of the landscape, the nearby dwellings seek and are considered successful in their ability to work with the topographical constraints of the site, instead of against it.

The design of properties within the immediate vicinity are noted as originating from a range of periods yet most notable of the surrounding buildings is their size, scale and massing which when compared to the proposed development confirms its modest size, scale, massing and footprint is acceptable for such a constrained site.

The resultant effect is one whereby the reduced, compact design of the proposal (noted as being reduced since earlier submissions) will retain an acceptable amount of land to surround the dwelling so as to provide comfortable access as well as enough separation distance and set-back from neighbouring dwellings so as to avoid the proposal representing an extension of any neighbouring building nor

existing as an excessive amount of built form and massing that the application site is unable to accommodate.

As such, when taking into account the proposal and the dominant character of the area, it is not considered that as a result of the proposal's implementation the site would be overdeveloped. However, this stance would likely change had the proposal come forward of any greater size, scale, massing or footprint.

The siting and handing of the proposal will ensure it is broadly in –keeping with the dominant positioning of dwellings within the area. The access to the site is obtained via a route from the top of the site; the proposal will also include a ground floor terrace area and first floor terrace with privacy screening.

When viewed from the street scene to the south east and wider vantage points, the proposal would exist as a compact and contemporary addition when compared to the areas neighbouring the application site which has been previously developed with low / medium density housing developments of a larger scale. It is not considered that the proposal would be so out of keeping with the dominant design, scale and density of buildings in this area so as to fail to accord with SALC Env7.'

Although the dwelling has been repositioned to attempt to overcome the previous trees issue, the design has not changed significantly, and certainly not to the extent that the Local Planning Authority could now justify a refusal of the proposal when it had not previously been raised¹.

Landscape:

The site occupies a prominent location above the Salcombe estuary, and is visible across the water from East Portlemouth. The Council's Landscape Officer has reviewed the proposal, and comments as follows:

'Whilst the site is within the town of Salcombe, the qualities and characteristics of the surrounding landscape are a significant consideration, as the Site is within the South Devon National Landscape. The local landscape exhibits key characteristics identified in the published Landscape Character Assessments for the Devon Landscape Character Area of Salcombe to Kingsbridge Estuary, including the estuary flanked by pronounced, steep sided rounded hills; the distinctive juxtaposition of water and land; the expansive, scenic views; the historic settlement of Salcombe; and the fact that the area is valued for water based recreation.

The development plan includes the Plymouth and South West Devon Joint Local Plan 2014-2034 (JLP) and the Salcombe Neighbourhood Development Plan 2018 to 2034 (SNDP). The JLP policies relevant to character and appearance are:

- DEV20 Place shaping and the quality of the built environment,*
- DEV23 Landscape character, and*
- DEV25 Nationally protected landscapes.*

The SNDP policies considered most relevant are:

¹ This refers to the 2019 application (4159/19/FUL). The subsequent application, 2831/22/FUL did differ in appearance, and this was referenced in the first refusal reason which related to the form and design of the dwelling. The current design has now reverted back to be more similar to 4159/19/FUL.

- *SALC Env 1 Impact on the South Devon Area of Outstanding Natural Beauty, and particularly SALC Env1.a) which states that development proposals should demonstrate that they ‘maintain the intrinsic character of the landscapes, townscape and seascape affected’*
- *SALC Env 7 Maintaining the character, and density of development in key areas of Salcombe, noting that the site falls within in Character and Density Policy Area B, identified in Fig 15 in the SLDP.*
- *SALC B 1 Design Quality and safeguarding Heritage Assets.*

SALC Env7 seeks to protect 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 locally distinctive characteristics of Salcombe contribute to the distinct character of the Salcombe-Kingsbridge estuary, and therefore to the Special Qualities of the South Devon National Landscape.

The site is lies within Character and Density policy area B, between Devon Road to the northwest and Cliff Road to the south-east, with existing residential development lining both of these roads. The garden spaces located between the 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 proportions of green space and 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 viable². Even so, the undeveloped nature of the site means that it remains clearly discernible as a green gap between surrounding dwellings and apartment buildings on the hillside. The proposed development would therefore remove a significant area of green space, 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 as it detrimentally impacts on the character of the existing low density development, and also conflicts with SNDP policy SALC Env 1, as a result of failing to maintain the intrinsic character of the townscape.

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

² Para. 5 of Appeal Decision APP/K1128/W/20/3260083

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. For this reason, there is also conflict with SNDP policy SALC B1, as the proposals fail to respond to and integrate with the local built surroundings, landscape context and setting.

In addition to the in-principle concern about introducing development into this site, the design of this latest application for a new dwelling raises other issues. The proposed dwelling would be externally clad in local stone, but this is the only element of the design that responds positively to local vernacular character and materials. In all other respects, the proposal does not adopt a conventional response to the local vernacular in relation to the form, scale, appearance. The proposal is for a strongly contemporary dwelling that has expansive areas of glazing and includes a tall, cylindrical, lift tower projecting from the flat roofline, as well as a lengthy, elevated walkway linking from the parking area at Stonehanger Court to the roof level of the new dwelling (which is 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, and it is inevitable that any new dwelling in this location will introduce sources of light into a location where there is no artificial lighting at present.

Salcombe is located in a highly scenic landscape, which is very popular with visitors and views of the town are a main element of the scenery from many publicly available viewpoints. The substantial houses situated along Devon Road, Bennet Road and Cliff Road occupy substantial plots on the steep slopes facing the estuary and are clearly visible in views from the water and from the beaches of East Portlemouth, from where people enjoy the scenic qualities of the landscape, as well engaging in recreational and leisure activities, and the proposed new dwelling would be conspicuous in those views, and the impact upon the character and appearance of the area would be adverse. In a landscape that is recognised as being nationally important, this harm must be given great weight in the planning balance.

The SHDC Tree Officer’s response addresses in detail the arboricultural issues pertinent to this site, and I support his concerns. The two, large, prominent, protected pine trees located above the site 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 party³. 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.

³ Para. 9 of Appeal Decision APP/K1128/W/20/3260083

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 where it requires development proposals to contribute positively to both townscape and landscape, and to protect and improve the quality of the built environment. I would also conclude a conflict with policies PSWD JLP policies DEV23 and DEV25 which seek ensure that development proposals conserve and enhance landscape, townscape and seascape character, natural beauty, and the special qualities of the South Devon National Landscape.

Recommendation: *Objection*

The proposed development would have an adverse effect upon the character and appearance of the area and would detract from the Special Qualities of the South Devon National Landscape, which conflicts with JLP policies DEV20, DEV23, DEV25, SNDP policies SALC Env1, SALC Env7, SAL B1.

Whilst the Landscape Officer's objection is noted, Officers are mindful that the landscape impact of the dwelling was not raised in the previous refusal which was largely similar to the current proposal (4159/19/FUL).

Officers do not dispute the fact that the proposal would introduce built form into a current 'green gap' within the landscape. However, the size of the dwelling is such that the site would not appear overdeveloped, and a sufficient area of open space would be retained around the building. The previous Officer Report also noted that impact on the landscape was acceptable due to the size of the dwelling within the site:

'As such, when taking into account the proposal and the dominant character of the area, it is not considered that as a result of the proposal's implementation the site would be overdeveloped. However, this stance would likely change had the proposal come forward of any greater size, scale, massing or footprint.

The siting and handing of the proposal will ensure it is broadly in –keeping with the dominant positioning of dwellings within the area. The access to the site is obtained via a route from the top of the site; the proposal will also include a ground floor terrace area and first floor terrace with privacy screening.

When viewed from the street scene to the south east and wider vantage points, the proposal would exist as a compact and contemporary addition when compared to the areas neighbouring the application site which has been previously developed with low / medium density housing developments of a larger scale. It is not considered that the proposal would be so out of keeping with the dominant design, scale and density of buildings in this area so as to fail to accord with SALC Env7.'

Officers do not consider that the current scheme is significantly different in terms of scale and design from the previous proposal (4159/19/FUL) that a refusal on landscape terms could now be justified. Mindful of the Landscape Officer's comments about the importance of the green space as a relief to the built form of the landscape, a condition would have been recommended, had the application been approved, to require a comprehensive landscape scheme to be submitted, to ensure that planting and landscaping was included within the site to retain natural features and vegetation which contribute to the wider landscape.

Similarly, conditions requiring details of external glazing to be agreed, and non-reflective glazing to be used would have been recommended to minimise the impact of the development from wider views, to preserve the setting of the National Landscape.

As well as the landscape setting, these conditions would have been necessary to preserve the setting of the Conservation Area, in a similar manner, by reducing the impact of light and glazing on the historic environment, and ensuring that the site retained areas of landscaping and greenery.

It should be noted that the previous appeal decision on the site dismissed the appeal partially due to the failure of the development to preserve or enhance the Conservation Area, or the AONB (as the National Landscape was formerly known as). However, the appeal decision is clear that this harm was as a result of the impact of the development on protected trees:

'Given the positive contribution of the trees to the landscape, loss or reduction of the trees would not conserve or enhance the landscape of the AONB⁴

'Given that I have found that the development would lead to an increased likelihood of loss or reduction of the trees, I conclude that the proposal would not preserve or enhance the character and appearance of the CA⁵

The appeal decision therefore hinges on the impact of the proposal on protected trees to determine whether or not the development would result in harm to either the Conservation Area, the AONB, or both. There is no suggestion in the appeal decision that the scale, position, or design of the dwelling itself, or the principle of a dwelling on the site, raised any concerns with regard to these protected landscape and historic designations.

Notwithstanding any identified impact of the proposal on trees (which will be discussed in the next section of this report), the proposal is considered acceptable in terms of landscape and heritage matters subject to the recommended conditions, and therefore complies with policies DEV21, DEV23, and DEV25 of the JLP, and policies SALC ENV1, SALC ENV 7, and SALC B1 of the neighbourhood plan.

Trees:

There is an almost vertical bank at the rear of the site, which extends up several metres to the rear neighbour, Rockledge. At the top of this bank, within the grounds of Rockledge, are two Black Pine⁶ trees which are protected by a TPO.

The Black Pine trees have umbrella shaped crowns and a light canopy structure. The base of the trees would be approximately 5 metres above the proposed house. T1 to the south of the plot is approximately 17 metres high and the crown would be within 2 metres of the boundary between the sites. T2 to the north of the plot is approximately 13 metres high, and a substantial proportion of the crown overhangs the appeal site.

⁴ Appeal decision APP/K1128/W/20/3260083 paragraph 21

⁵ Appeal decision APP/K1128/W/20/3260083 paragraph 23

⁶ It appears that there was some discussion at the previous appeal about the exact species of Pine tree, but it was agreed that Black Pine was an acceptable description, and so for consistency, Officers will maintain this description in this report.

It has not previously been a matter for dispute between the applicant and the LPA that the two protected trees make a significant, positive contribution to its landscape and scenic beauty.

The current application has attempted to overcome the previous reason for refusal by repositioning the dwelling within the site; the site has been moved further east, and at least 2m beyond the surveyed canopy of the two Black Pines. Additional information has also been submitted in respect of tree issues, including a review and appraisal of the Black Pines.

The relocated scheme, and all of the information relating to the trees has been reviewed and considered by the Council's Tree Officer. He maintains his previous objections to the scheme, commenting as follows:

1. The submitted information has been principally reviewed in accordance with the Plymouth & South West Devon Joint Local Plan 2014-2034, BS5837:2012 Trees in relation to Design, Demolition & Construction & further additional industry best practise guidance, policies and legislation as required.

2. A site visit was made on the 31st Jan 2024 with the Senior Landscape Specialist for the Authority, further attended by the project architect and appointed arborist.

3. Comments set out are made following review of the following applications.

- 0560/16/PRH*
- 4159/19/FUL. Refusal and subsequently dismissed appeal (hearing)*
- 0201/19/FUL (Withdrawn)*
- 2831/22/FUL. Refusal*

4. All pertinent documents and officer responses contained within this application and those considered to have a bearing from previous applications have been duly reviewed and regard given to their contents prior to formation of this officer consultation response.

5. The site description has not changed, and the continued presence of the large prominent Black Pines forms the principal constraint in respect of Arboricultural Officer responses.

6. The list of uploaded documents notes 3no. from Bartlett Consultancy however I was able to observe 2no. only. The third formed part of supporting information in respect of 2831/22/FUL and has been read to ensure all pertinent information has been considered.

7. As with the previous application a detailed meteorological report has been submitted, seeking to offer heightened confidence that the probability of failure of the trees onto the site as a consequence of adverse weather is at reasonable levels. This level of confidence is not agreed with when applied to natural and dynamically growing organisms such as trees, and what is relevant now may not apply through various stages of the trees' lifespans. Weather, whilst having set patterns on occasion, may be highly unpredictable as exhibited by previous major storms from non-prevailing directions, which lead to immediate tree failure or incipient damage that is at such a level it may fail after the weather

event during normal prevailing weather conditions.

8. Given that no variance in the continued good health of the subject trees has been documented by the applicants, it is appropriate to continue to afford significant weight upon their retention because their continued good health should result in long life spans. These trees are large sylvan features with prominence in public views, and from multiple viewpoints, amplified by the land form and via side point of emergence. As such their amenity value is considered to be unusually high.

9. For clarity specific officer concerns have not centred on direct overhang of tree parts above structures. They have centred more intensively upon the previously described apprehension of harm and pressure for early life shortening works that would ensue as a consequence of the proposed intensification of land use to a domestic nature below.

10. Their point of emergence high above the site, added to their present canopy height and mass, and their slowly growing stem diameters and crown form, continues to lead to officer concerns that any new or future occupant will grow dissatisfied with such large trees above their property and land within their period of tenure of the dwelling. Various occupants will be likely to have differing risk tolerance levels and what the first owner may perceive as acceptable may be of great concern to future tenures.

11. As before, the Planning Authority would find it difficult to resist applications for tree works under the TPO, given the approved new land use below. Such works would be readily resisted if it were cliff scrub-like vegetation only and not an intensively occupied dwelling and its outdoor spaces.

12. This view was supported by the planning case officers within application references 4159/19/FUL and 2831/22/FUL and by the Appeal Inspector during the appeal hearing in respect of 4159/19/ FUL where the appeal was dismissed, largely echoing arboricultural concerns as made by the Tree Specialist for the Authority.

13. Planning Officer advice made during the pre-application would be caveated that it would be subject to full consideration of further officer response and representations received as is the normal case with pre application advice.

14. Other applications in the vicinity are cited as precedent for the desired approval of the application, however each differs in its constraints and each decision should be taken in isolation, based upon its specific merits and constraints.

15. Whilst the change in building form at the East end and rotation of the Western corner circa 2m to the South is noted it is not of sufficient material bearing to overcome the in principal officer concerns that led to the sustained Objection to previous schemes.

16. It is continued officer view that the development, if approved, would be highly likely to lead to significant works to the protected trees at a far earlier stage than if the present land use continued. Such works would be readily appreciable and of long-term harm to the coastal sylvan setting and degrade their function as

positive visual features within the protected National Landscape.

17. As summarised within the dismissed appeal and subsequent refused application 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 change to building form and rotation to the South.

Recommendation: *Objection on arboricultural merit for the following reasons*
1. It is considered the application is contrary to Policy Dev 28 of the Plymouth & South West Devon Joint Local Plan 2014-2034 and/ or BS5837: 2012 Trees in Relation to Design, Demolition & Construction

Despite the applicant's attempts to resolve the concerns about the trees and the additional pressure on them as a result of the development, the Council's Tree Officer is not satisfied that their previous objections have been overcome, and maintain this objection. The introduction of the proposed dwelling would inevitably lead to a higher risk of harm to people and property from falling branches or tree failure than if the site remains undeveloped.

A consequence of this is that 'fear of harm' from the trees could increase. The extent of this is unknown and, by its nature, largely unquantifiable. In the previous appeal decision, the Inspector noted that '*given the height and proximity of the trees above the house and entranceway, I consider that such fear would be foreseeable, rational, and reasonable*⁷.' In turn, this would increase the likelihood that an application is made to the Council to prune or fell the trees.

The applicant has suggested that they would be willing to enter into a Section 106 agreement, including the following obligations to be imposed on the owner of the new dwelling⁸:

- *To pay for and undertake with a consultant and to a specification agreed with the Council a health check of the two pines every five years.*
- *In the event of any damage to the trees caused by weather or any other natural cause to undertake as requested by the Council an immediate health check of the trees, together with carrying out at the owners expense, whatever remedial action is deemed necessary*
- *The owner undertakes not to make any applications to lop top or fell the trees pursuant to the tree preservation order, or any other future tree preservation order or similar that protects the trees*
- *To indemnify the Council against any financial liability that could arise from any unforeseen circumstances in relation to the two trees with regard to the new house*
- *To undertake entirely at the owners expense at any time called for by the council the planting of two specimens of black pine of appropriate maturity either on the site or any other site deemed suitable by the council within the Area of National Landscape*

⁷ Appeal decision APP/K1128/W/20/3260083 paragraph 12

⁸ Suggested obligations as set out in an email to the Council from the agent dated 22nd February 2024

The possibility of resolving the Tree Officer's concerns was discussed during the consideration of the 2019 application (4159/19/FUL). At that time, it was not considered that a legal agreement was the appropriate mechanism to make the application acceptable. Officers would also note that this was not an option explored by the Inspector during the subsequent appeal.

As the potential for a S106 has been put to the Council once again, the Tree Officer has considered the request again, and confirms that his position remains as per the previous application, commenting as follows:

'I have given due consideration of this request, whilst reviewing the previous similar request within refused at appeal scheme ref 43159/19/FUL and my resultant response.

I am afraid that it would not be able to change my view (expanded upon in my previous response in respect of the refused at appeal scheme our ref 4159/19/FUL) for the following reasons.

To seek to prevent a present or future owner from submitting a tree work application, (either ordinary or emergency exemption notice) through a S106 agreement would be impossible and unreasonable to seek to control legally in my opinion. Trees as dynamic organisms will at some point in their lifespans inevitably need works of some form to be undertaken often outside of anything predictable within an ongoing inspection regime such as that proposed. Such interventions inevitably happen with increasing frequency as trees age. To prevent a person from applying for works on a safety basis would be unreasonable and would I feel not legally binding, as it would place them in a dangerous situation without redress by way of lawful pruning.

The Planning Authority would be expected to take a reasonable and cautionary approach if the safety of occupants below or damage to property was possible and allow works, with any works by their nature eroding the amenity benefits of trees by the removal of parts readily visible to the wider public.

As stated throughout my responses it is the intensification of land use and elevated risk (leading to applications that could be refused at the stage) that would arise that would be a certainty, the continuance of the minimal use of the land (and resultant extremely low risk to occupants/ users) can only be secured by the continued refusal of a dwelling in this location below the prominent trees.

For the above reasons and those in my response in respect of 4159/24/FUL I would be unable to agree to this as a mechanism to make the application suitable on arboricultural merit.'

As such, Officers retain the position held during the consideration of 4159/19/FUL, that a S106 would not be appropriate in this instance, and would not address the outstanding objection in regard to trees.

For these reasons, despite the amendments to the position of the dwelling, and the additional information provided, Officers conclude that the proposal would increase the likelihood of significant works to protected trees, which could cause their loss or

deterioration, in conflict with policy DEV28 of the JLP and policy SALC ENV5 of the neighbourhood plan.

Neighbour Amenity:

Policies DEV1 and DEV2 of the Joint Local Plan seeks to preserve residential amenity, in terms of outlook, privacy, daylight, sunlight, air, water, noise, and land use. DEV1(1) clarifies that unacceptable impacts will be judged against the level of amenity generally in the locality.

The proposal is not considered likely to give rise to any significant, detrimental amenity impacts upon the living conditions of the property to the north west – no direct lines of sight are likely to be achieved from the front habitable windows of the property to the north and the rear windows of the proposal as a result of the distinct topography of the application site.

The steep topography of the land within and surrounding the site means that there is a high degree of overlooking between dwellings, but the distance between properties, and difference in ground levels mitigates this overlooking.

In terms of neighbour relationships, the proposed dwelling is considered to have a similar impact as existing dwellings- the topography means that the dwelling would look over the properties below, and would be significantly lower than the dwellings behind. Whilst there would be an impact to neighbours, and there would be some degrees of overlooking from external terraces particularly, the particular circumstances of the site in terms of distance and topography leads Officers to conclude that this impact would not be any more harmful than the existing context for residents. To the sides of the site, the orientation and distance of neighbouring sites to the proposed dwelling lead Officers to reach a similar conclusion, that the dwelling would not be harmful to the amenity of these neighbours.

The proposal is therefore considered to be acceptable in terms of residential amenity, and policies DEV1 and DEV2 of the JLP.

Highways/Access:

The highways authority originally objected to the application, considering the development to result in an increase in the volume of traffic entering and leaving the Class C road without adequate visibility.

The applicant subsequently provided a speed survey and revised improved access arrangement to address these concerns. The highways authority have confirmed that this resolves their objection, and that they were satisfied with the proposal, subject to a number of conditions. Had the development been considered acceptable in all other regards, these conditions would have been recommended as part of any permission granted.

Some of the objections received related to parking provision for the site, suggesting that as the development would utilise a parking space currently available to Stonehanger Court, the proposal would result in the loss of parking.

The JLP SPD provides indicative parking requirements for new development. However, the SPD is clear that these are indicative provisions, and that there may be circumstances whereby more, or less parking provision is justified- for example, rural locations may need

greater amounts of parking, whereas town centre locations may be able to provide less parking due to their proximity to local services and facilities.

Policy SALC T1 of the neighbourhood plan also supports the provision of adequate parking spaces for new housing, and seeks to prevent any further pressure on on-street parking in the parish. The neighbourhood plan does not give specific parking provision requirements.

Whilst the proposal would not include any new parking spaces, Officers are mindful that the site is in a location where occupants would not be reliant on a car for access to everyday services and facilities; the site is a short walk from the town centre and its associated amenities. Lack of parking provision has also not been raised as a reason for refusal in previous iterations of the application, and so the Council would not be reasonable in including this now. On balance, given the location of the site and the available parking within Stonehanger Court, Officers consider the parking provision to be adequate, and the proposal is acceptable in terms of highways matters.

Low carbon development:

Policy DEV32 of the JLP identifies that the need to deliver a low carbon future for Plymouth & South West Devon, and should be considered in the design and implementation of all developments to support the Plan Area target to halve 2005 levels of carbon emissions by 2034. This is compatible with the legally binding UK net zero target, which must be achieved by 2050 at the latest, as stipulated in the 2008 Climate Change Act.

The Council has also adopted a Climate Emergency Planning Statement (CEPS) in November 2022 in response to the declaration of a Climate Emergency by each Council. The CEPS responds directly to the Climate Emergency declarations issued across Plymouth and South West Devon and identifies exactly what all new development should do to meet the challenge of climate change and the adopted JLP carbon reduction target. It builds on existing planning policies set out within the Plymouth and South West Devon Joint Local Plan and its supplementary planning document, embraces new standards and proposes new requirements.

The proposal seeks to develop a sustainable building utilising the following design methods:

- Insulated walls, roof and floor constructed of reinforced concrete
- Hot water and heating will mainly be provided via an air-source heat pump.
- Triple-glazed windows
- A detailed property so as to minimise air leakage and will incorporate MVHR whole house ventilation system to ensure living spaces are suitably pressurised.
- Permeable surface on the terraces will water to percolate through and retain groundwater on-site.
- Reduction in glazing from previous scheme by 10%
- The green roof too will retain water on site and attenuate run off
- Installation of PV panels

The development is therefore considered to have sufficient regard to the requirements of DEV32 and the CEPS, and has been designed with energy and sustainability in mind. The

proposal is therefore considered acceptable in terms of low carbon development and associated policy requirements.

Ecology:

The application is accompanied by a Preliminary Ecological Appraisal, which confirms that there are no ecological reasons to withhold planning permission. The report suggests measures for mitigation and enhancement, such as the planting of native shrubs and trees to add habitat diversity, the installation of bat, bird, and hedgehog boxes, bee bricks, and a reptile hibernaculum. Had the proposal been considered acceptable in all other regards, a condition would have been recommended to require the development to adhere to the recommendations of the ecology report.

Summary and Planning Balance:

The principle of a dwelling on the site remains acceptable; the site is in a sustainable location, and would provide an additional two-bed dwelling, with a principle residency occupancy restriction, in line with the general housing need of the town.

However, the proximity of the proposal to protected trees above the site is considered to result in potential pressure for significant works to the protected trees at a far earlier stage than if the present land use continued. Such works would be readily appreciable and of long-term harm to the coastal sylvan setting and degrade their function as positive visual features within the protected National Landscape. The trees in question are considered to make a significant and positive contribution to the protected landscape, which is given the highest degrees of protection at both national and local policy level. As such, the identified harmful impact to these trees is considered to outweigh any identified benefits of the scheme in the overall planning balance. The application is therefore recommended for refusal.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Relevant policy framework

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

On 26 March 2019 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
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
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
DEV27 Green and play spaces
DEV28 Trees, woodlands and hedgerows
DEV31 Waste management
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts

Salcombe Neighbourhood Plan

SALC ENV1 Impact on the South Devon Area of Outstanding Natural Beauty.
SALC ENV2 Green Infrastructure throughout the Parish.
SALC ENV5 Maintaining the character and environmental quality of the estuary.
SALC ENV 7 Maintaining the character, density, and green infrastructure in key areas
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 Area of Outstanding Natural Beauty Management Plan (2019-2024)
Salcombe Conservation Area Appraisal
Plymouth and South West Devon Joint Local Plan Supplementary Planning Document (2020)
Plymouth and South West Devon Climate Emergency Planning Statement (2022)

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 correctly recorded within the computer system. As Determining Officer I hereby clear this report and the decision can now be issued.

Name and signature: *Charlotte Howrihane*

Date: 22 February 2024