

4036/23/FUL Land adjacent to Stonehanger Court Devon Road Salcombe (2021)







**PLANNING REF: 4036/23/FUL**

**DESCRIPTION: Construction of a two storey house.**

**ADDRESS: Land adjacent to Stonehanger Court Devon Road Salcombe.**

30<sup>th</sup> January 2024

## **LETTER OF OBJECTION FROM THE SOUTH HAMS SOCIETY**

### **The South Hams Society interest**

For the last 60 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment. We support the right development - in the right places - and oppose inappropriate development.

The South Hams Society **objects** to this latest planning application for the Lower Rockledge site.

Three previous attempts have been made to construct a dwelling on this site.

The first application for the construction of a new two storey studio house 0201/19/FUL, was submitted at the start of 2019. It followed on from pre-application proposal 0560/16/PRH. Unfortunately that pre-app advice is currently not publicly available, but according to the applicant the then case officer had confirmed on 10 July 2018 that a proposal '*to place a large house on this site was acceptable*'.

Whether this advice was in any way qualified is unknown. But that advice pre-dates the Salcombe Neighbourhood Plan which was subsequently adopted more than a year later in September 2019.

What is certain is that when 0201/19/FUL was submitted, Salcombe Town Council objected strongly, arguing:

*'This proposal would have a detrimental effect on the AONB, was overdevelopment of the site and had no amenity space provision. There were also numerous areas where the proposal was contrary to the Neighbourhood Development Plan but that many trees had already been removed.*

*ENV1 - it does not maintain the intrinsic character of the landscape and seascape, has a visual impact on the AONB, and does not have regard to the AONB guidance*

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*ENV5 - it is removing a wooded area visible from the estuary*

*ENV7 - the site is within policy area B and the proposal has a detrimental effect on existing low-density development, mature gardens and trees*

*B1 - it is not retaining existing wooded areas. The new development does not propose any new parking spaces*

*There would be potential overlooking of Poundstone Court and Hamstone Court. There was a large amount of glass incorporated in the design both outward and upward which potentially could cause significant light pollution impacting on the surrounding AONB. There was a major concern raised over protected trees both at Rockledge and on the site itself that could be damaged during construction’.*

Nor were the Town Council alone in noting that before any application had been submitted, many trees had been removed from the site.

To quote from the Council’s Tree Officer’s report dated 11 March 2019:

*‘2. ... Of principal note is absence of any discussion upon Woodland tree preservation Order TPO676 W1 within the arborists submission or the Design and Access Statement. The order was confirmed in 2004 without modification and protects trees of all species. The order is formed so as to closely follow the curtilage of the subject site.*

*3. During the site visit I noted recently cut stumps of sprouting vegetation, potentially forming part of the TPO.*

*The Tree Officer then submitted a second report a few months later on 17 July:*

*2. c. The dwelling, if approved, would cover the majority of the area of the woodland order in terms of the physical structure and the further use of the site as domestic garden would in effect remove all available area for normal woodland tree growth and seed emergence.*

*2. d. Whilst the nature of the site following intense management does not bear significant woodland attributes the cessation of clearance works would allow regrowth from cut stumps and/or trees to potentially emerge from the seed bank in the soil such that its visual amenity benefits would return more fully in due course’.*

It is therefore perhaps ironic that Aspect Tree Consultancy are claiming in their submission in support of this latest application:

*‘(8.3) The proposal does not require the loss of any protected trees.’*

For some reason they omit to mention that as a direct result of the earlier attempts to construct a dwelling on this site a number of protected trees have previously been felled.

Nor do they acknowledge that were the site to remain undeveloped trees could ‘potentially emerge from the seed bank in the soil such that its visual amenity benefits would return more fully in due course.’

The Society echoed the Tree Officer's conclusion in its own objection to application 0201/19/FUL:

*'The South Hams Society firmly believes that the proper protection of the natural function of TPO 676 W1 – free from further clearance or development - will in time restore the visual amenity and integrity of the site in question for the benefit of the wider community'.*

We also quoted from the Council's own Salcombe Conservation Area Appraisal', adopted in February 2010:

*'Salcombe has few clearly visible green spaces within its core; more often, foliage and vegetation are only glimpsed over high boundary walls or through gateways. The almost total lack of front gardens means that those that do exist should be jealously guarded for the dash of colour and texture they contribute to their urban surroundings. On the periphery of the Conservation Area, green areas are much more prevalent. The large historic land plots of Devon Road and Allenhayes allow room for lush planting fronting the roadside and landscaped and cultivated gardens to the rear, which also contribute to the townscape due to the steep terrain. Public green spaces are also important, from the isolated green area of verge with park bench in Devon Road with its spectacular views over the estuary or larger public green spaces such as Courtenay Park, Cross Cottage Garden, the Churchyard and Cliff House gardens and terraces that provide small natural oases within this waterfront town. Certain boundary hedges and trees provide structural features that contribute to the aesthetic value of the area; the mature hedges on the corners of Acland Road, the monkey puzzle on Allenhayes Road and the tree at the junction of Allenhayes Lane and Devon Road'.*

Then early in October, the application 0201/19/FUL was withdrawn and two months later, just before Christmas, application 4159/19/FUL was submitted. As our objection to this second application emphasised:

*'This site at Lower Rockledge is particularly sensitive and the previous application (0201/19/FUL), which we objected to, was rightly rejected by SHDC. Natural open space and retention of trees and vegetation between the properties on this hillside are a rare and attractive feature of this part of Salcombe. The proposed development would remove a significant area of green space to the detriment of the low density development character of the area and wider view of the town, including from across the estuary. As with the previous application, this proposal for a new two storey dwelling would clearly not conserve the site's special qualities or distinctive natural beauty. The South Hams Society (SHS) therefore considers that it fails the key test for development within the AONB'.*

In his report the case officer quoted extensively from the Society's objection (which we attach for reference). He also noted the comments of the Town Council, who reiterated their belief that:

*'... this proposal would have a detrimental effect on the AONB, was overdevelopment of the site and had no amenity space provision. There were also numerous areas where the proposal was contrary to the Neighbourhood Development Plan but that many trees had already been removed'.*

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The Town Council also referenced conflicts with Neighbourhood Plan policies:

*'ENV1 - it does not maintain the intrinsic character of the landscape and seascape, has a visual impact on the AONB, and does not have regard to the AONB guidance ENV5 - it is removing a wooded area visible from the estuary ENV7 - the site is within policy area B and the proposal has a detrimental effect on existing low-density development, mature gardens and trees B1 - it is not retaining existing wooded areas. The new development does not propose any new parking spaces.*

and:

*There would be potential overlooking of Poundstone Court and Hamstone Court. There was a large amount of glass incorporated in the design both outward and upward which potentially could cause significant light pollution impacting on the surrounding AONB'.*

Separately however the Council's Tree Officer was forced to withdraw his objection, acknowledging:

*'Following our rounded discussion I am now able to withdraw my objection to the scheme based upon the impact on the TPO. The efficacy of the TPO has been eroded from the serving of the order in 2003 and it now does not fit within the required set of attributes to serve as a self-perpetuating woodland'.*

A concession perhaps forced on him by the fact that unauthorised pre-application tree clearance on the site had previously taken place and his realisation that by the time of this submission the ongoing *'repeated clearance of protected vegetation has presently led to a diminishment of woodland attributes'*. The Society would argue such behaviour by any applicant ought to be sufficient to ensure consent would be automatically refused. Unfortunately no such legal basis exists.

Instead, in recommending refusal, the case officer chose to do so:

*'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.*

*As such, on balance, the environmental / amenity impacts the proposal is considered likely to give rise to outweighs the limited economic and social benefits to the render the proposal unacceptable. As such, planning permission is hereby refused'.*

The prominent subject trees, both of which continue to benefit from the TPO, are a Corsican Pine and an Austrian Pine, both dominant in the landscape.

Both were also critical considerations when the Inspector came to determine the appeal submitted by the applicant that followed the case officer's decision.

The main issue (4), concluded the Inspector, is:

*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).*

The case officer, the Tree Officer and the Planning Inspector all agreed the proposed development's:

*'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'.*

The Inspector went on to add (26):

*'In addition to the increased likelihood of loss or reduction in protected trees, the consequent harm to the AONB is a matter of great weight according to paragraph 176 of the Framework. The harm to the setting of the CA from this would be less than substantial, and in this event, paragraph 202 of the Framework states that this harm should be weighed against the public benefits of the proposal. The minor public benefit from the contribution of one house to the local supply and economy would not outweigh the harm to the CA, which is also a matter of great weight according to the Framework'.*

The appeal was dismissed in August 2021, so in October 2022 the applicant tried again for a third time (application 2831/22/FUL).

In the Design & Access Statement accompanying this application the architect wrote:

*'As a part of this current application detailed studies have been carried out on the two trees and how pine trees would respond to variable weather conditions. These studies show that concerns about potential risks from these two trees to any new house below are not supported by the evidence'.*

while:

*'In response to the planning inspector's decision and the South Hams District Council's tree officer's views, notwithstanding the detailed studies noted above, we have relocated and remodelled the house... The house has been moved to the east, away from and at least 2m beyond the surveyed canopy of the two pine trees above'.*

The Council's Tree Officer was not persuaded (8):

*'Repeated for the purposes of this application officer concerns are that an 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*

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*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’.*

Noticeably, in a letter accompanying this latest application, the applicant continues to dispute the Tree Officer’s conclusion, which was also shared by the Planning Inspector, stating:

*‘We believe the evidence we again provide on the health of the trees, the strength and direction of the prevailing winds, and the separation distance to the new house makes it abundantly clear that you would have no trouble in refusing any subsequent application by a future resident of the new house to fell or prune the trees’.*

This argument previously failed to satisfy the Planning Inspector, who cautioned (10):

*‘... the longer term risk to people and property from tree or branch failure is not calculable with any degree of certainty, particularly when allowing for extreme weather events, hence the recommendation to regularly review the risk assessment. I heard that the prevailing winds are southwesterly, which would blow debris away from the house. However, it is possible that winds in a storm would behave more erratically and the fall path of heavy material would be influenced by additional factors, including gravity and the weighting of the tree. I conclude that tree or branch failure could occur, and that debris could fall towards the appeal site.*

*And, were that the case, the Council would have little option but to agree to the trees being felled’.*

It is also important to note the response of the Council’s Landscape Officer to 2831/22/FUL in some detail, almost all of which remains applicable in the context of this latest application (4036/23/FUL):

*In respect of the principle policy tests in the NPPF, this application is not considered to constitute “major development”, due to a relevant context of residential built development. However, as set out below, there are considered to be detrimental effects on the landscape and environment of the AONB that should be given great weight in this planning balance.*

*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*

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*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.<sup>1</sup> 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.*

*SNDP Policy, SALC ENV1 Impact on the South Devon Area of Outstanding Natural Beauty 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.*

*Built and Historic Environment, the SNDP, para. 6.3.1.2: 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.*

*However, the perpetuation of very modern, uncharacteristic dwellings, in addition to an increase in the density of built form and the loss of valued green space, will further the deterioration of character and local distinctiveness in the town, and is not supported.*

It is here worth repeating and emphasising the Landscape Officer's opinion that:

*'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*

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*low density development character of the area, which is particularly evident in wider views of the town, including from across the estuary’.*

That professional opinion is shared by the Town Council, who as detailed earlier in their objection to 0201/19/FUL pointed out a development on the site:

*‘... does not maintain the intrinsic character of the landscape and seascape, has a visual impact on the AONB, and does not have regard to the AONB guidance’.*

According to the applicant, the main changes between this latest application and 4159/19/FUL are that:

*‘This current application takes the house design that was considered satisfactory from application 4159/19/FUL and moves it away from the two Rockledge pine trees next door, the sole reasons for refusal of that application’.*

However in considering that house design satisfactory the Officer Report for 4159/19/FUL makes the point:

*‘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’.*

Not only is the latest position of the proposed development noticeably closer to Sheerwater (now no more than five metres) and far further away from Stonehanger Court than was the case when pre-application advice 0560/16/PRH first suggested placing a large house on this site was acceptable, but it is also noticeably closer to Poundstone Court than was detailed in 4159/19/FUL.

By moving the dwelling further to the East this application places it further forward in the landscape, so in all probability making it appear more dominant, and by reducing the space between it and its immediate neighbours it is far more likely to represent an extension to those neighbouring buildings, so making the site appear overdeveloped.

There is then also the question of the two balconies on the new dwelling. Both face east, and both will overlook Poundstone Court, now a mere 11 metres below. Consequently it is not unreasonable to suggest that occupants of the proposed dwelling might wish to breakfast on one or another of the balconies and so be looking down in to the rooms of the apartment buildings below at a time when their residents might well be still in bed, getting out of bed, or in their bathrooms.

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Similarly, when assessing 2831/22/FUL the Landscape Officer noted:

*'... it is inevitable that any new dwelling in this location will introduce lighting into a site where there is no artificial lighting at present'.*

According to the applicant this latest proposal:

*'... has a glazed area 10% less than the supported design incorporated in planning application 4159/19/FUL from three years ago and the internal floor area is reduced by 3%'.*

That might well be the case, but it might also be thought disingenuous as the East facing glazed area, that overlooking the Estuary, appears to have increased from circa 64m<sup>2</sup> to 70m<sup>2</sup>, so increasing the probability of light pollution.

It might also be thought somewhat disingenuous to suggest this proposed development is a 2-bedroom home, and so satisfies a Salcombe housing need. In the United Kingdom the average size of a 2-bedroom house is between 74m<sup>2</sup> and 140m<sup>2</sup>. The floor area of this proposal is more than twice that, at around 330m<sup>2</sup>.

Finally, in refusing application 2831/22/FUL, the case officer decided:

*'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'.*

The Society believes those same conclusions apply just as much to this latest application, and for those same reasons we believe application 4036/23/FUL should also be refused.

For and on behalf of the South Hams Society.

Richard Howell,  
Chairman



Salcombe, Cliff Road, Devon Road and Bennett Road (2010)





The hillside, is being ripped apart, plot by plot (above 2021- below 2024)





## PLANNING APPLICATION REPORT

**Case Officer:** Jeffrey Penfold  
Thurlestone

**Parish:** Salcombe **Ward:** Salcombe and

**Application No:** 4159/19/FUL

**Agent:**

Mr Richard Pain  
The Loft  
Chillington  
Nr. Kingsbridge  
TQ7 2LW

**Applicant:**

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

**Site Address:** Land at SX 738 387, Lower Rockledge, Devon Road, Salcombe, TQ8 8HJ

**Development:** Construction of new two storey house with ancillary external paths and terraces and renewal of external staircase (Resubmission of 0201/19/FUL)

**Recommendation:** Refuse Planning Permission

**Reason 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 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 thirdparty 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.*

## **Key issues for consideration:**

Principle / Sustainable Development

Design, Visual Impacts, the South Devon AONB and the Salcombe Conservation Area

Neighbouring Amenity

Highways / Access

Drainage

Trees / Landscape

Waste / Recycling Low-

Carbon Development

Biodiversity / Ecology.

## **Site Description:**

The application site is located along Devon Road within the grounds of Stonehanger Court in the urban area of Salcombe town located in the South Hams. Stonehanger Court is a late Victorian three-storey building converted into apartments.

The application site has a distinct topography, sloping steeply downwards in a north to south and west to east direction. The site comprises mostly low ground cover plants, some small shrubs and a few larger bushes. A number of trees exist to the north and west and some smaller trees at the northern end of the site.

The site has no existing standing buildings and some wall terracing retaining made up ground. The application site is surrounded by developed sites: Stonehanger Court containing six apartments to the north, the house of Rockledge and Sheerwater to the east and the apartment buildings Hamstone Court and Poundstone Court to the south and east.

Access to the site is obtained via an existing gravelled stepped path from the lower Stonehanger Court car parking area. A South West Water (SWW) owned drain runs across the northern end of the site.

The application site is located within the Salcombe Conservation Area 50m Buffer Zone, the South Devon AONB, a Cirl Bunting 2km Buffer Zone, the Salcombe Neighbourhood Plan Area and a SSSI Impact Risk Zone. A number of TPOs and a Woodland TPO also exist on and off site.

## **The Proposal:**

The application proposes the erection of a new two-storey house with ancillary external paths and terraces and renewal of external staircase (Resubmission of Ref: 0201/19/FUL).

## **Consultations / Representations:**

### **Representations from Residents:**

One letter of support has been received in response to the public consultation.



8 objections have been received in response to the public consultation exercise:

- Impacts on Trees
- Groundworks will have a detrimental impact on the root structure and stability of nearby trees
- Character and appearance of the area
- Flooding (water ingress and land slip)
- Danger to foundations of Rocklegde
- Ground stability
- Safety Grounds
- Aesthetic Grounds
- Failure to accord with SNP.

2 undecided representations have also been received in response to the public consultation exercise raising the following concerns:

- Land stability
- Roots of A1 trees which are local landmarks.

**Other:** The applicant has provided representations from neighbouring residents that they have now responded positively to the further information provided.

With regard to ground / land stability, the application is accompanied by a Slope Stability Assessment which confirms that the overall stability of the cliff in the area of the new construction will be increased by the removal of the excavated materials. Any planning permission granted shall be conditioned so as to require the submission of a detailed ground movement assessment prior to commencement.

An additional report has been provided which confirms that the construction is not expected to destabilise the existing conditions and further investigation is proposed to confirm the current competence of the deep stratum.

#### **Representations from Internal Consultees:**

**Historic Environment:** *No comments.*

**Environmental Health:** *No comments. A standard condition concerning unexpected contaminated land shall be applied to any planning permission granted.*

**Trees:** *See relevant section of this report.*

**Drainage:** *No objections, subject to conditions.*

**Landscape:** *See relevant section of this report (Trees).*

#### **Representations from Statutory Consultees:**

**DCC Historic Environment Team:** *No comments.*

## **The South Hams Society:**

### **The South Hams Society interest**

1. For the last 50 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment. We support the right development - in the right places - and strenuously oppose inappropriate development, as we believe to be the case with this application.

### **The proposed site**

2. The South Hams District Council has a legal duty to protect and enhance the South Devon AONB which is a nationally prized landscape and a major economic asset. Section 85 of the Countryside and Rights of Way Act 2000 requires that the Local Authority adheres to the purpose of conserving and enhancing the landscape and natural beauty of AONBs. The National Planning Policy Framework (NPPF) paragraph 172 specifies that **great weight** must be given to this purpose. The applicants are therefore required to demonstrate how the location, siting, layout, scale and design of the proposed development 'conserve and/or enhances what is special and locally distinctive to the site'.

This site at Lower Rockledge is particularly sensitive and the previous application (0201/19/FUL), which we objected to, was rightly rejected by SHDC. Natural open space and retention of trees and vegetation between the properties on this hillside are a rare and attractive feature of this part of Salcombe. The proposed development would remove a significant area of green space to the detriment of the low density development character of the area and wider view of the town, including from across the estuary. As with the previous application, this proposal for a new two storey dwelling would clearly not conserve the site's special qualities or distinctive natural beauty. The South Hams Society (SHS) therefore considers that it fails the key test for development within the AONB.

### **Salcombe Conservation Area Appraisal**

3. As evidence of the particular importance of green spaces and trees in this area, we refer to the SHDC document 'Salcombe Conservation Area Appraisal', adopted in February 2010 (available online), which provides compelling reasons for protecting the site at Lower Rockledge. Devon Road is specifically referenced on page 15:

#### **'Green spaces and trees**

Salcombe has few clearly visible green spaces within its core; more often, foliage and vegetation are only glimpsed over high boundary walls or through gateways. The almost total lack of front gardens means that those that do exist should be jealously guarded for the dash of colour and texture they contribute to their urban surroundings.

On the periphery of the Conservation Area, green areas are much more prevalent. The large historic land plots of Devon Road and Allenhayes allow room for lush planting fronting the roadside and landscaped and cultivated gardens to the rear, which also contribute to the townscape due to the steep terrain. Public green spaces are also important, from the isolated green area of verge with park bench in Devon Road with its spectacular views over the

estuary or larger public green spaces such as Courtenay Park, Cross Cottage Garden, the Churchyard and Cliff House gardens and terraces that provide small natural oases within this waterfront town. Certain boundary hedges and trees provide structural features that contribute to the aesthetic value of the area; the mature hedges on the corners of Acland Road, the monkey puzzle on Allenhayes Road and the tree at the junction of Allenhayes Lane and Devon Road.'

The map contained of the Salcombe Conservation Area at Annex 1 illustrates the landscape described above and shows the position within it of Lower Rockledge.

4. **JLP and Local Neighbourhood Plan** A key objective of the Salcombe Neighbourhood Development Plan (NDP) is that: Any future development must have due regard of its impact on the AONB, Undeveloped Coast, the rural landscape character and green infrastructure that surrounds the separate and distinctive settlements in the Parish, and the natural valleys and landforms.

SHS believes that this proposal conflicts with Salcombe NDP Policies: **ENV 1** which seeks to protect the characteristics and features of the AONB; **ENV 5** protecting existing woodland areas and the environmental quality of the valley slopes to the water's edge; **ENV 7** seeking to maintain low density development, natural green spaces and trees; **B1** safeguarding design quality and Heritage assets. **Adverse impact on landscape character and visual amenity.**

5. SHS consider that the proposal compromises the local distinctiveness and visual amenity of the hillside location, especially when viewed from the harbour and East Portlemouth. The substantial spacing between properties is an inherent and attractive attribute in this area of Salcombe, which justifies sympathetic assessment and protection. Planning Policy at all levels seeks to protect the valued coastal landscape, and to conserve local landscape character, and therefore SHS consider that the proposal conflicts with, and fails, Policy Objectives as set out in DEV 23, DEV 24 & DEV 25 of the JLP.

DEV 25 (8) specifically requires development proposals to: 'ii. Be designed to prevent the addition of incongruous features. iii. Be located and designed to respect scenic quality and maintain an area's distinctive sense of place, or reinforce local distinctiveness. iv. Be designed to prevent impacts of light pollution from artificial light on intrinsically dark landscapes.'

#### **Increased light pollution**

6. The importance of dark skies to nature, wildlife and human well-being is increasingly recognised in England through planning law, and particularly so within AONBs (as recognised in the recent Glover review) where light pollution can affect Landscape character. Current local AONB guidelines state - 'natural nightscapes and dark skies are defining special qualities of the South Devon AONB: they are of natural, cultural and scenic importance'.

Annex 2 illustrates the problem of light pollution already evident within Salcombe. Within the NPPF paragraph 180 states that:

'Planning policies and decisions should ... ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the



site or the wider area to impacts that could arise from the development. In doing so they should:

- identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

So a further material planning consideration for the SHS is the light pollution that the proposed development would introduce into the prominent hillside location, with its multiple visual receptors from the harbour and East Portlemouth in a town already recognised as a 'hot spot' for light pollution within the South Devon AONB.

### **Site analysis with regard to Woodland Preservation Order TPO 676 WI**

7. As with the previous application, SHS notes the comments in the Design & Access Statement dated 03/01/2020:

*'We raised the matter of the Woodland Order with the Planning and Heritage Officers at preapp stage and it was acknowledged that the site is not a woodland. It is considered that the trees on the site are not functioning collectively as a woodland and that the site does not have any of the characteristics of a woodland' and further that –*

*'DEFRA Magic Maps have been checked and no woodland nor history of woodland is indicated for the site or immediately adjacent to the site'.*

*The South Hams Society emphatically refutes these comments. Woodland Tree Preservation Order TPO 676 W1 was confirmed in 2004 without modification and still protects trees of all species on this site. As such this Order is a very significant material planning consideration for the LPA when assessing the impact of the proposed new built form at Lower Rockledge.*

*We reiterate the fact that at some point prior to the original application (0201/19/FUL) being submitted, document dated 23/01/2019, there was **intense clearance** of vegetation on the proposed development site, which altered the appearance of the site, and this included the removal of trees. This (illegal) erosion of woodland is substantiated within documents that can be viewed on the SHDC Planning portal under Ref: 0201/19/FUL.*

*In the document 'Internal Consultee Response - Trees - 11/03/2019', the SHDC Tree Officer states: 'During the site visit I noted recently cut stumps of sprouting vegetation, potentially forming part of the TPO'. Also, the Consultation Response 'Parish Council - 22/02/2019' states that: 'The site itself was subject to a Woodland Order but it was noted that several trees had already been removed'. Further written testimonies of the removal of trees can be viewed in three separate Letters of Representation also present on the Planning website.*

*SHS considers that further comments by the SHDC Tree Officer (in the same document, dated 11/03/2019) provide compelling reasons for protecting the extant Woodland designation, specifically: 'Whilst the nature of the site following intense management does not bear significant woodland attributes, the cessation of clearance works would allow regrowth from cut stumps and/or trees to potentially emerge from the seed bank in the soil, such that it's visual amenity benefits would return more fully in due course'.*

*SHS takes a strong view that natural regeneration of the woodland validates the function and purpose of the TPO, and that the applicants self-serving claims within the Design & Access Statement that the site is not a woodland should not be used as mitigation for development. High Court Case 'Palmer Developments v Secretary of State' confirmed the requirement of a Woodland Order to apply to future trees and the need for tree succession to be secured, also that the Order would not achieve its purpose if it only protected those trees present at the serving of the Order. We are therefore of the opinion that the previous documented clearance of vegetation and removal of individual trees at this site does not alter the purpose and function of the Woodland Order. Therefore the impact of development on the site conflicts with JLP Policy DEV 28.*

**Conclusion:**

*8. In conclusion, the view of the South Hams Society is that the proposed development is unacceptable by virtue of its location within the South Devon AONB (arguably Salcombe is already over-developed), the particular features of the site (the low density character of the valley slopes), the adverse impact on the character and visual amenity of the area, the increase in light pollution and the further detrimental impact on protected woodland.*

*The South Hams Society firmly believes that 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. We are convinced that the benefits of providing a single dwelling within an already crowded settlement do not outweigh the significant harms identified here.*

**Officer's Response:** application reference no: 0201/19/FUL was not refused planning permission, the application was withdrawn.

The South Hams Society Submitted a further representation raising the following concerns:

*"The South Hams Society (SHS) notes the Extension of Time granted on the Target Determination Date to 01/05/20 and your comment within an email dated 09/04/20 to the architect, Richard Pain, that - 'Whilst we bottom out the final issues on this case, please may we agree to an E O T until 1 May 2020?'*

*As you may know the SHS has already lodged a Letter of Objection on this application. We maintain this objection and wish to add the following additional points:*

*Whilst SHS are disappointed that the Council's Tree Officer withdrew his objection to the scheme based upon the efficacy of the TPO, we nevertheless endorse his reiterated objection premised on his comments that:*

*'The off-site Pine trees are intrinsic elements of the local environment and the distinctive character of the Salcombe and Kingsbridge Estuary where numerous groups of Pine trees are readily visible to public viewpoints', and -*

*'I reiterate my objection in respect of impact upon offsite trees and likely harm to the visual amenity contributions made to the maritime setting by the dominant Pine trees'.*

*\* We note the use of LIKELY HARM in this statement. Significantly, the Council's Landscape Specialist also recognises the lower density of residential development in this part of Salcombe - 'where green infrastructure forms an integral part of the settlement pattern*

*between dwellings and larger residential apartments. This is principally within private garden spaces where the combination of tree canopies and vegetation contribute positively to the scenic quality and natural character of the town’.*

*Reiterating the point made by the Tree Officer, the Landscape Specialist also finds that: ‘the proposal could adversely harm important trees next to the site’, and he concludes –*

*‘This should be given appropriate weight in the planning balance to avoid adverse impacts on the AONB and recognised characteristics of this low density residential area within Salcombe’.*

*Both Officers have rightly raised concerns with regard to the level of harm that the proposed development presents in its setting of the South Devon AONB.*

*As you will be aware - ‘It is a matter of national Planning policy, and therefore of Law, that the impact of development on an AONB is elevated above the status of an ordinary material consideration, and is a matter which must be accorded great weight in the overall balance of benefits and dis-benefits.*

*The Countryside and Rights of Way Act 2000 places a statutory duty on the relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of the AONB when exercising or performing any functions affecting land within, or adjacent to it. All other considerations are secondary.’*

*In conclusion, we wish to reiterate comments made in our previous L o R Objection, dated 31/01/20, and in particular that it is a key objective of the Salcombe Neighbourhood Development Plan that:*

*‘Any future development must have due regard of its impact on the AONB, Undeveloped Coast, the rural landscape character and green infrastructure that surrounds the separate and distinctive settlements in the Parish, and the natural valleys and landforms’.*

*In this respect SHS consider that the proposal conflicts with NDP Policies - B1, ENV1, ENV5 and ENV7.*

*The substantial spacing between properties is an inherent and attractive attribute in this area of Salcombe – a town which has suffered relentless development and in-filling between properties for decades – and this factor alone justifies sympathetic assessment and protection.*

*The proposed new build would, we believe, adversely affect the character and visual amenity of this prominent and attractive hillside setting. We can find no evidence to support the assertion that the benefits of providing a single dwelling within an existing settlement would outweigh the identified harm to this protected landscape.*

*The South Hams Society therefore maintains its request for refusal of this application”.*

#### **Salcombe Parish Council:**

*Objection as this proposal would have a detrimental effect on the AONB, was overdevelopment of the site and had no amenity space provision. There were also numerous areas where the*



*proposal was contrary to the Neighbourhood Development Plan but that many trees had already been removed.*

*ENV1 - it does not maintain the intrinsic character of the landscape and seascape, has a visual impact on the AONB, and does not have regard to the AONB guidance ENV5 - it is removing a wooded area visible from the estuary ENV7 - the site is within policy area B and the proposal has a detrimental effect on existing low-density development, mature gardens and trees B1 - it is not retaining existing wooded areas. The new development does not propose any new parking spaces.*

*There would be potential overlooking of Poundstone Court and Hamstone Court. There was a large amount of glass incorporated in the design both outward and upward which potentially could cause significant light pollution impacting on the surrounding AONB.*

*There was a major concern raised over protected trees both at Rockledge and on the site itself that could be damaged during construction. There was concern in relation to the construction management as the only access was along the drive of Stonehanger Court. This activity would remove up to six parking spaces, during construction, and there were also structural concerns due to the topography of the site. If approval was granted, then it would need a S106 agreement re the Principal Residence policy as set out in H3.*

**Natural England:** *No comments.*

**DCC Highways:** *Standing Advice Applies.*

### **Relevant Planning History:**

Ref: 0201/19/FUL – Construction of new two-storey studio house Land at SX 738 387, Lower Rockledge, Devon Road, Salcombe, Devon, TQ8 8HJ. Withdrawn – 23 January 2019.

### **ANALYSIS:**

#### **Principle / Sustainable Development:**

The starting point for this application is that of JLP Policy TTV1 which sets out the Council's development strategy across the Thriving Towns and Villages Policy Area.

The policy supports development which accords with the Council's 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 Smaller Town and Key Village which provide a more limited range of services than the Main Towns, but nevertheless they 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.

In this instance, it is noted that the application site is located within the Salcombe Neighbourhood Plan (SNP) Settlement Boundary and given the proposal would seek to implement infill residential development, it is considered that the proposal would accord with JLP Policies TTV1, SPT1 and SPT2.

With regard to the SNP policies, the relevant principle policies in respect of new development within the settlement boundary, the application proposes market housing and therefore SNP Policy SALC H2 is considered relevant, and states:

**Policy SALC H2 Market Housing:**

*Market Housing in the Parish within allocated sites of the Plymouth and South West Devon Joint Local Plan 2014 -2034 (JLP) on infill sites within the existing settlement boundary, apart from as part of an exception site as set out in Policy SALC H4 where the market housing is required to cross subsidise the affordable housing scheme will be supported. All development should meet 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.*

Paragraph 6.6.9 of the SNP States: *The delivery of new open market housing within Salcombe Parish is supported on allocated sites within the JLP and infill sites within the settlement boundary providing it meets the local need as evidenced by the Housing Needs Survey.*

The application site is considered infill site given its siting within the SNP Settlement Boundary and the site specific circumstances confirming the site is surrounded by other residential dwellings. SALC H2 a) requires market housing to be compliant with JLP Policy DEV8 which states:

**Policy DEV8:**

***Meeting local housing need in the Thriving Towns and Villages Policy Area***

*The LPAs will seek to deliver a wide choice of high quality homes which widen opportunities for home ownership, meet needs for social and rented housing, and create sustainable, inclusive and mixed communities. The following provisions will apply:*

- 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.*

The housing data for the Salcombe Parish confirms that the development of a 2-bedroomed, detached dwelling would be acceptable in this instance and respond positively to housing market needs of the area.

SNP Policy SALC H2 b) requires market housing to respond to local housing needs as defined in the latest Housing Needs Survey and this has been demonstrated under SNP Policy SALC H2 a). Further, the proposal would provide for disabled access and accessibility at the forefront of the design. Officers feel that the proposal attempts to deliver the requirements of SALC H2 c) in delivering housing solutions for the disabled / elderly.

In addition, the proposal is confirmed by the applicant as market housing and as such, it would be necessary for the applicant to enter into an s106 agreement / condition concerning principle residency as per SNP Policy SALC H2 c). The applicant has agreed to enter into such an agreement.

Overall, no concerns are raised in respect of the principle of residential development at this location and the proposal accords with JLP Policy DEV8 and the SNP Policies SALC H2 and H3. The overall acceptability of the proposal is still subject to compliance with other relevant JLP Policies discussed below.

As such, the principle of residential development as proposed in this location is accepted and the proposal accords with JLP Policies SPT1, SPT2, TTV1, DEV8 and SNP Policies SALC H2 and H3

***Design, Visual Impacts, the South Devon AONB and the Salcombe Conservation Area:***

The site is located in a 50m conservation area buffer zone and the application is therefore subject to s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) which gives local planning authorities the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The proposed development would need to have an acceptable impact on the character of the host dwelling and surrounding area and would need to preserve or enhance the special character of the Conservation Area in order to be considered acceptable.

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.

Representations which concern the impacts the proposal may have upon the conservation area raise valid points that the existing site contributes to the wider area as there exists few clearly visible green spaces within its core. With regard to Devon Road, it is noted that this area allows for lush planting fronting the roadside and landscaped and cultivated gardens to the rear, which also contribute to the townscape due to the steep terrain.

The addition of the proposed dwelling in this location is not considered to give rise to any significant, detrimental visual impacts purely on the basis of an additional dwelling being inserted within this location. Specifically, the proposed design brief would see the contemporary dwelling utilise the restricted space effectively, ensuring an acceptable degree of movement around the building whilst retaining a satisfactory amount of green space / woodland.

It is noted that the application site provides for some contribution to the wider area in terms of its green space, however, the site is not considered of a size nor scale that its partial / limited



loss would be of such significant detriment so as to result in resisting planning permission on grounds of visual impacts.

As a measure to ensure the site's value to the conservation area is maintained, it is imperative that a range of conditions are imposed which includes: the submission of a landscaping plan, a Tree Protection Plan, samples and details of all external materials. As such, it is not considered that the development would require the total loss of this valued green space so as to deem the proposal unacceptable on design / visual impact grounds. As such, the proposal would accord with SALC Env5 in respect of respecting an existing wooded area visible from the estuary.

### **Conclusion:**

With regard to the Salcombe Conservation Area, the application will be required to submit further details and samples of all external materials, including glazing and slate roof tiles. Measures will also be taken so as to ensure the proposed glazing on all elevations is suitably tinted so as to reduce light pollution given the site's prominent location.

Considering the points discussed above, the proposed works are considered to have an acceptable impact on the character and appearance of the building and the Salcombe Conservation Area and as such complies with policies, the NPPF (2018) and the statutory tests for development in conservation areas.

With regard to the South Devon AONB, it is repeated that the site lies within an existing and somewhat dominant residential / urban area, within the settlement boundary of Salcombe, albeit with the plot of land serving as some respite between the areas of built form.

The partial / limited retention of this green space (as informed through the previous application and pre-application advice) will be suitably managed via a landscaping plan and input from a Tree Protection Plan which along with the proposed contemporary design brief, materials / colour palette will ensure the proposal will not be so out of keeping as a residential dwelling within an accepted and clearly dominant urban / residential area so as to give rise to any significant, detrimental visual impacts above and beyond this existing situation. As such, the proposal would not be considered to exist as an incongruous feature and is considered in light of the above, to conserve and enhance the South Devon AONB.

In an effort to minimise impacts upon the AONB, the proposed glazing along the front, rear and side elevations could give rise to some concerns over impacts upon the dark skies of the South Devon AONB and increased illumination. However, the siting of the proposal sandwiched in between two much larger dwellings which is noted as housing a large number of different households therefore giving rise to more sporadic and random use of internal lighting, differs substantially to the single household hereby proposed and is considered of a lesser impact upon the South Devon AONB. When viewed from the street scene and wider vantage points of a similar height the properties surrounding the proposal will act to screen some parts of the proposal so as to ensure not all of the glazing will be wholly visible. Said buildings are permanent structures and attached greater weight in their mitigating effects than a vegetative screening.

If implemented, the proposal would form part of a much wider group of dwellings all facing in this direction with no areas to the rear of the dwelling acting as a clear, natural and untouched rural backdrop to the site, it is considered that with the implementation of suitable

glazing techniques so as to reduce artificial light spill onto the dark skies of the AONB, coupled with the accepted and dominant residential nature of the immediate vicinity, the proposal is not considered likely to give rise to any significant, detrimental visual impacts upon the setting of the South Devon AONB and by virtue of the proposal sympathetic design and ability to retain as much of the valued green space as possible would conserve and enhance the special qualities of the south Devon AONB to an acceptable level.

As such, the proposal is considered acceptable in seeking to maintain the dominant landscape, townscape and seascape of the South Devon AONB.

As such, subject to conditions, the proposal accords with JLP Policies DEV20, DEV21, DEV23, DEV25 and SNP Policies SALC ENV1, ENV5, ENV7 and B1.

### ***Neighbouring Amenity:***

The main concerns with regard to neighbouring amenity in respect of the proposed development concern the properties to the south east and south west of the application site.

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 existing dwelling sited to the immediate west would be sited approximately 12.5m away when measured from the front windows to the rear habitable rooms of the dwelling. The siting of the proposal would prevent any overlooking and / or intervisibility being created between the two dwellings.

The majority of the windows serving this property are sited to the front elevation and seek to utilise the scenic views over the estuary, and so are positioned facing east or south east. The rear of the property does not feature any rear terrace areas only access staircases and doors and this further confirms the acceptability of the relationship between the two properties.

It is noted that the proposal will not implement a habitable window directly opposite a blank facing wall on the property to the west. The proposal would also pass the 25 degree test in this instance.

With regard to the existing dwelling to the south east, it is noted that no habitable windows are provided for on this elevation only access stairs and doors to the apartments.

The proposal would have the potential to give rise to some overlooking onto the property to the south east, however, with a separation distance of at least 26m, no concerns are raised in this respect.

### ***DEV10:***

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 accords with JLP Policies DEV1, DEV2 and DEV10.

### **Highways / Access:**

The proposal will seek to utilise an existing garage at the head of the drive which will serve the dwelling. The site is in good proximity to local services to ensure that the future residents of the site will not necessarily require complete reliance upon the car for access to local services.

The existing access from Devon Road will not be altered which given its existing approved status is deemed to comply with highways standards of Devon County Council. There is sufficient area to turn vehicles within the site. If any complications arise between neighbouring properties then the use of the garage for a single vehicle is considered acceptable provision. It is noted that no concerns are raised by DCC in this respect.

With regard to access, the site has a distinct sloping topography with some resultant issues with access to the dwelling. The application proposes to renew the approach to the property given its existing states with a new permeable shallow stair – which will also improve the access to Flat 1 Stonehanger Court. The proposed access will be suitable for disable access and this is supported given the potential use of the dwelling by the elderly.

As such, the proposal accords with JLP Policy DEV29 and SNP Policy SALC B1.

### **Drainage:**

The council's drainage officer made the following comments in response to the proposed drainage scheme:

*"To overcome the objection the applicant will need to provide an updated drainage plan showing details of the flow restrictor to demonstrate that no overflow linked to SWW system and also details of the pre-treatment to avoid sediments/debris into the flow control device".*

The applicant provided the following response:

*"Following advice in the attached email from Bauder, the suggested blue roof manufacturer, it is proposed to provide an emergency parapet overflow. The flow restrictor outlet and emergency overflow will be located on the front face of the building as shown on the attached updated Drainage Plan and mark-up of the architect's elevation plan. The level of the emergency overflow will be set below that of the internal overflow within the flow restrictor outlet.*

*As a result in a blockage or exceedance event rain water will build up and always escape through the emergency overflow rather than the internal overflow within the flow restrictor outlet. Using this arrangement will ensure that the internal overflow within the flow restrictor outlet will never be in use and therefore no additional flow will drain to the public sewer system over and above the controlled flow. The rain water that escapes out of the overflow will drop into a hopper and downpipe which will terminate above ground level. This will therefore act as a 'tell-tail' for the attached hand sketch which illustrates this proposed arrangement.*

*The pre-treatment will be provided by the planting and substrate, as well as the filter layer underneath. This layer is a geotextile fleece that prevents fines and sediments from being washed into the water storage component. As an additional measure the Bauder system also provides a vegetation barrier which is a vegetation free edging around the flow restrictor outlet made up of round washed pebbles. This will prevent any sediments from encroaching into the outlet".*

No concerns are raised in respect of the proposed surface water drainage strategy. A suitable condition shall be attached to any planning permission granted to ensure compliance with the approved drainage plans. Foul drainage has been agreed with SWW.

As such, subject to conditions, the proposal accords with JLP Policy DEV35.

### **Trees / Landscape:**

The council's Landscape Officer makes the following comments:

*"This response is based upon an examination of the planning file and submitted plans. In considering this application and assessing potential impacts of the development proposal against nationally protected landscapes, in addition to the Development Plan, the following legislation, policies and guidance have been considered:*

- *Section 85 of the Countryside and Rights of Way (CRoW) Act;*
- *Sections 12 and 15 of the NPPF in particular paragraphs; 127, and 170, 172 & 173;*
- *The National Planning Practice Guidance (NPPG) particularly Section 8-036 to 8-043 on Landscape; and*
- *The South Devon AONB Management Plan and its Annexes.*

*In respect of the principle policy tests in the NPPF, this application is not considered to constitute "major development" in the context of paragraph 172, the limited scale and context of the proposal. However, there may be detrimental effects on the landscape and environment of the AONB that should be given great weight in this planning balance.*

### **Landscape Comments:**

*The proposed site is within the settlement of Salcombe. This part of the town is recognised for having a lower density of residential development, where green infrastructure forms an integral part of the settlement pattern between dwellings and larger residential apartments.*

*This is principally within private garden spaces where the combination of tree canopies and vegetation contribute positively to the scenic quality and natural character of town. The treed*

*character is often dominated by coniferous species which adapt well to this maritime environment, and add to the wider sylvan appearance.*

*The proposed development is for a moderately sized new dwelling within a garden plot. It is adjacent to mature trees and would result in the loss of undeveloped green space but is within an urban context. Whilst it is recognised that the current scheme is smaller than previous designs, and as a result has a more limited impact on the overall character, it is asserted that the proposal could adversely harm important trees next to the site. This should be given appropriate weight in the planning balance to avoid adverse impacts on the AONB and recognised characteristics of this low density residential area within Salcombe”.*

**Trees - Appraisal:**

- 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. Review of the submitted information has been undertaken in conjunction with previously submitted information to support application reference 0201/19/FUL and note is made of further argument to address arboricultural officer objection.*
- 3. The repeated clearance of protected vegetation has presently led to a diminishment of woodland attributes, however such can be expected to regenerate naturally via allowed emergence of seed bank trees, or in conjunction with additional enrichment planting such that the desired attributes of the woodland order are again realised*
- 4. Concerns are repeated from officer comments dated 17th July 2019 (0201/19/FUL), points a. to d. where the further information submitted as part of this application is considered to apply insufficient weight to withdraw the recommendation of objection on arboricultural merit.*

**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.*

Following further discussions with the Council’s Trees officer, the following revised representation has been received:

**“TPO676 W1 – Commentary:**

*Following our rounded discussion I am now able to withdraw my objection to the scheme based upon the impact on the TPO. The efficacy of the TPO has been eroded from the serving of the order in 2003 and it now does not fit within the required set of attributes to serve as a self-perpetuating woodland.*

**Impact upon offsite trees:**

*Detailed study of crown form of the offsite trees T3 and T5 was made during my recent site visit. It is noted that the crown of T3 is biased over the site due to historic clearance works to*



*maintain its relationship with the trees owners' property. This crown form will be likely to amplify fear of harm from any future occupiers. The nature of the constructional technique to robustly build the property is considered irrelevant. Pressure to fell or inappropriately prune these third party trees may be exerted upon the tree owner.*

*Whilst the present land use would allow resistance of such a request based on a low risk of harm to persons or structures, if approved as residential then the duty of care responsibility owed by the tree owner to new occupants may be such that works harmful to the sylvan aspect of the AONB may be required to prevent legal liability and civil dispute between the parties.*

*The offsite Pine trees are intrinsic elements of the local environment and the distinctive character of the Salcombe and Kingsbridge Estuary where numerous groups of Pine trees are readily visible to public viewpoints. At no point would they classify as ancient woodland, veteran trees or hedgerows given the urban nature of the site and its Victorian era setting out, and this statement has not been made on behalf of the Local Authority.*

**Recommendation:**

*Therefore whilst I remove the element of my objection in respect of the impact upon the woodland TPO I reiterate my objection in respect of impact upon offsite tree and likely harm to the visual amenity contributions made to the maritime setting by the dominant Pine trees”.*

In response to the above comments made by the council's trees officer, officers opened dialogue with the applicant and duly considered other mitigation measures which considered the use of an s106 agreement as a means of mitigation and as a vehicle to monitor the ongoing threat of threat of the off-site trees to the application site.

In addition, the applicant also confirmed that their client has:

*“Previously helped the owners of Rockledge with garden maintenance issues and their drains which pass under his land. He has always had good neighbourly relations with the owners, however the top floor apartment was sold in February after the previous owner [redacted] died and he has not yet met the new owners. My client is happy to work with the owners of Rockledge to ensure the longevity of the two pine trees, which we all agree are important to this aspect of Salcombe, whether this be via regular condition inspections allied with a maintenance programme and / or new plantings. My client is happy to enter into an s106 if that is required or a unilateral undertaking between my client, Mr Carpenter and Mr and Mrs Andrews. Should an s106 be deemed necessary could you please provide us with a typical agreement for such purposes and we ask our solicitors to respond”.*

Officers considered the proposed measures put forward by the applicant as well as draft section 106 / Unilateral Undertaking and the following statement comprises the council's final position with regard to trees:

*“Further to our phone conversation and my review of the suitability of a Planning obligation or Unilateral Undertaking being suitable mechanisms to make the application suitable on planning merit please find my comments below.*

*You are aware that my officer recommendation is of objection to the application as I am of the opinion it is contrary to Policy Dev 28 of the Joint Local Plan, and maintain this position (please see my online responses for detail).*

*If we were to consider the proposal put before us this would be at odds with my officer recommendation and indicate that my objection was less firm than it is. My understanding of the use of Planning Obligations (of all forms) is that they are to be used to make unacceptable developments acceptable where possible. The constraint posed by the offsite trees is such that I do not consider this to be possible and that the premise of development as per the application cannot be made acceptable given the age, spatial relationship and public prominence of the trees.*

*I am unable to move from this position to a new position where the high level of potential pressure to prune or fell the trees can be mitigated for by any agreement between the named parties. Trees as dynamic organisms are subject to biotic and abiotic factors beyond the parameters of a S106 agreement and the nature of intensification of land use below (if consent follows) would by necessity require higher levels of management than that necessary given the unoccupied nature of the land it presently enjoys.*

*The major benefit of any agreed S106 would be to the tree and site owners and would not achieve any future mitigation of the impact of the development to the wider public who presently enjoy the visual aspect of the trees within the maritime setting.*

*Therefore based upon my reasons set out above I would consider the proposal unsuitable and continue to object to the application. We have recently served provisional TPO's upon the trees given their previously unprotected status and their importance within the local landscape".*

As such, it is considered that the proposal would fail to accord with JLP Policy DEV28.

NB: Officers are satisfied that the LPA has exhausted all available options to make this matter of the proposal acceptable and has provided above and beyond a basic level of service to the applicant.

### **Waste / Recycling:**

An existing waste / recycling storage area exists at the top of the site and this is shared with neighbouring properties. As such, suitable provision is provided for the storage of waste / recycling boxes and this is located in close proximity to Devon Road where collections take place.

As such, the proposal accords with JLP Policy DEV31.

### **Low-Carbon Development:**

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.
- The green roof too will retain water on site and attenuate run off.

As such, no concerns are raised in respect of the proposal's ability to deliver a low-carbon development and the proposal accords with JLP Policy DEV32.

***Biodiversity / Ecology:***

The application is accompanied by a Preliminary Ecological Appraisal (PEA) which provides for a series of mitigation measures and precautions, including:

***Bats:***

Effect: Introduction of artificial lighting and light spill

Mitigation Measures: Carefully designed lighting scheme / use of coated glazing.

***Birds:***

Effect: loss of nesting opportunities.

Mitigation Measures: Provide permanent opportunities as 'integrated' nest boxes.

***Reptiles / Amphibians:***

Effect: loss of habitat and range

Mitigation Measures: following an appropriate clearance program, opportunities will be factored in to landscaping to maintain potential for these creatures on site.

Overall, no significant effects are considered likely with regard to the above.

***Precautions:***

***Reptiles and amphibians:***

Before any works begin on Site, a development zone must be established and cleared of reptiles and amphibians by an experienced ecologist at an appropriate time of year (late spring 2019 onwards). Once the Site has been cleared and individuals translocated, groundworks can begin.

***Nesting Birds:***

Before any works commence, areas where nesting is likely to occur (March-August inclusive) must be thoroughly checked for nesting birds, and, if nesting is discovered, works must stop in that area and the site protected until the young have fledged.

***Bats:***

Lighting is likely to be the biggest threat to bat use of the surrounding area. Therefore a modelled lighting scheme should demonstrate how the proposal will reduce/eliminate light spill into the surrounding countryside and SSSI.

As such, subject to conditions requiring compliance with the proposed PEA, the proposal accords with JLP Policy DEV26.

### ***Planning Balance:***

Whilst it is noted that the proposal is deemed acceptable in principle, the overall acceptability of the application is subject to accordance with the remainder of the relevant JLP Policies.

In this instance, some, moderate weight is attached to the proposal's ability to provide for 1no. 2-bed dwelling that responds well to the housing needs of the Salcombe Neighbourhood Plan and that of the wider JLP housing needs. The proposal is considered acceptable in terms of sustainability and in response to housing needs.

However, the adoption of the JLP and its policies ensures all policies are afforded full-weight in the decision-making process and it should be noted that the council now can demonstrate a 5YHLS. As such, the tilted balance is no longer engaged. The proposal is therefore attributed some, limited weight in providing for social benefits to the plan area.

In terms of economic benefits, the proposal would provide some income revenue streams for local services, construction and council tax payments but such contributions are also afforded limited weight.

Although broadly in accordance with the relevant environmental and landscape designation policies of the JLP and made SNP, the proposal, 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.

As such, on balance, the environmental / amenity impacts the proposal is considered likely to give rise to outweighs the limited economic and social benefits to the render the proposal unacceptable. As such, planning permission is hereby refused.

***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:**

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

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

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

The relevant development plan policies are set out below:

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

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

**Neighbourhood Plan:** The Salcombe Neighbourhood Plan is now made and has been referred to as part of this report.

**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 officer's report. As Determining Officer I hereby clear this report and the decision can now be issued.**

**Name and signature: Jeffrey Penfold**

**Date: 06/05/2020**

**Chairman of Planning Committee - Cllr J Brazil**

**Date cleared – 04/05/2020**

**Comments made - None**

<p><b>Ward Member - Cllr J A Pearce</b></p> <p>Date cleared - 30/04/2020</p> <p>Comments made – <i>“I consent to delegated refusal based on your report and the accompanying reports from the tree officer”.</i></p>	<p><b>Ward Member – Cllr M L C Long</b></p> <p>Date cleared – 01/05/2020</p> <p>Comments made – <i>“I agree and support the delegated recommendation of refusal”.</i></p>
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