

PLANNING REF: 1068/23/FUL - Smalls East Portlemouth TQ8 8PU



Charity No 263985

**Registered Address: 20 Highfield Drive, Kingsbridge, Devon TQ7 1JR
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PLANNING REF: 1068/23/FUL

DESCRIPTION: Application for carbon neutral boat house with living area above for occasional overnight stays

ADDRESS: Smalls East Portlemouth TQ8 8PU

3rd November 2023

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 planning application.

Ancillary Accommodation and Curtilage

The applicant has submitted a Planning Inspectorate appeal '*Appeal Ref: APP/F9498/W/20/3257957 The Dairy, Middle Dean Farm, Road from Coulsworthy Crook to Dean, Parracombe EX31 4PJ*' to support their application.

However, the applicant's submitted '*PLANNING STATEMENT*' states under the heading of '*Application Site*' on page two the following paragraph:

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

Significantly the Society does not agree that the proposed site is part of the curtilage of Smalls Cottage.

The curtilage of 'Smalls Cottage' is separated from proposed site by the East Portlemouth Bridleway 5. The property has a boundary wall to the curtilage of Smalls Cottage on the east side of the highway. The proposed development site is to the west of the Bridleway.

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The Society refers the Case Officer to the case of *Burford v Secretary of State for Communities and Local Government & Anor* [2017] EWHC 1493.

There is a useful analysis of the ‘*Definition of curtilage*’ at paragraphs 32 -37 of the judgment.

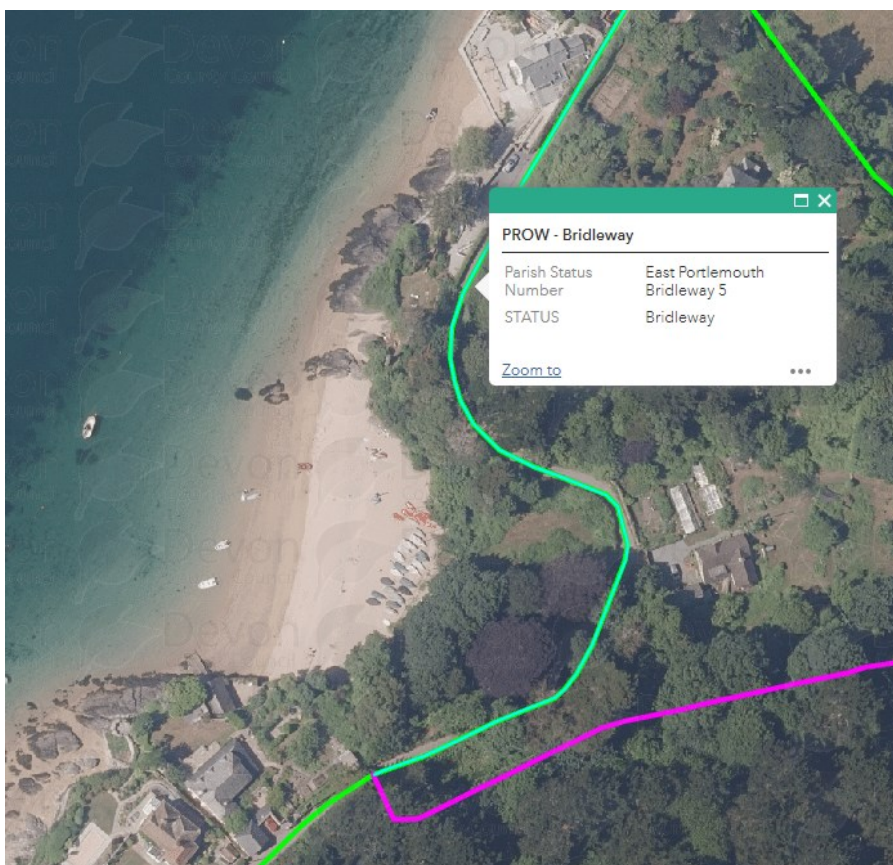
The last sentence of paragraph 46 usefully offers a definitive description:

“Curtilage” is an area of land “attached to” a house and “forming one enclosure with it”.

Smalls Cottage is to the east of the Bridleway.



And this is the DCC description of the Highway.



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The land is clearly separated by the highway and the Society is not able to find any record on any map of a building development on the Small Cove beach shoreline site.

For many years the location has been a woodland area.

Smalls Cove 21st July 1959 (Historic England Aerial Photograph Collection)



The proposal includes the creation of a parking area alongside the Bridleway for two cars. The proposed Boathouse contains all the facilities to operate as a separate property on a site that is separate to the Small Cottage property.

The Society are of the opinion that the proposed development is not ancillary to Smalls Cottage.

Biodiversity

We are also disappointed to see a statement in the application form for biodiversity stating that the site not adjacent to '*Designated sites, important habitats or other biodiversity features*'.

Extract from the application form:

Biodiversity and Geological Conservation

Is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

To assist in answering this question correctly, please refer to the help text which provides guidance on determining if any important biodiversity or geological conservation features may be present or nearby; and whether they are likely to be affected by the proposals.

a) Protected and priority species

- Yes, on the development site
- Yes, on land adjacent to or near the proposed development
- No

b) Designated sites, important habitats or other biodiversity features

- Yes, on the development site
- Yes, on land adjacent to or near the proposed development
- No

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The site is immediately adjacent to the Salcombe / Kingsbridge Estuary SSSI site.

In addition the development proposal includes a sewage package treatment plant.

The Society brings to the attention of the Case Officer rule 18 of the General Binding Rules for small sewage discharges to the ground.

'Rule 18: make sure the discharge point is not in or near protected sites

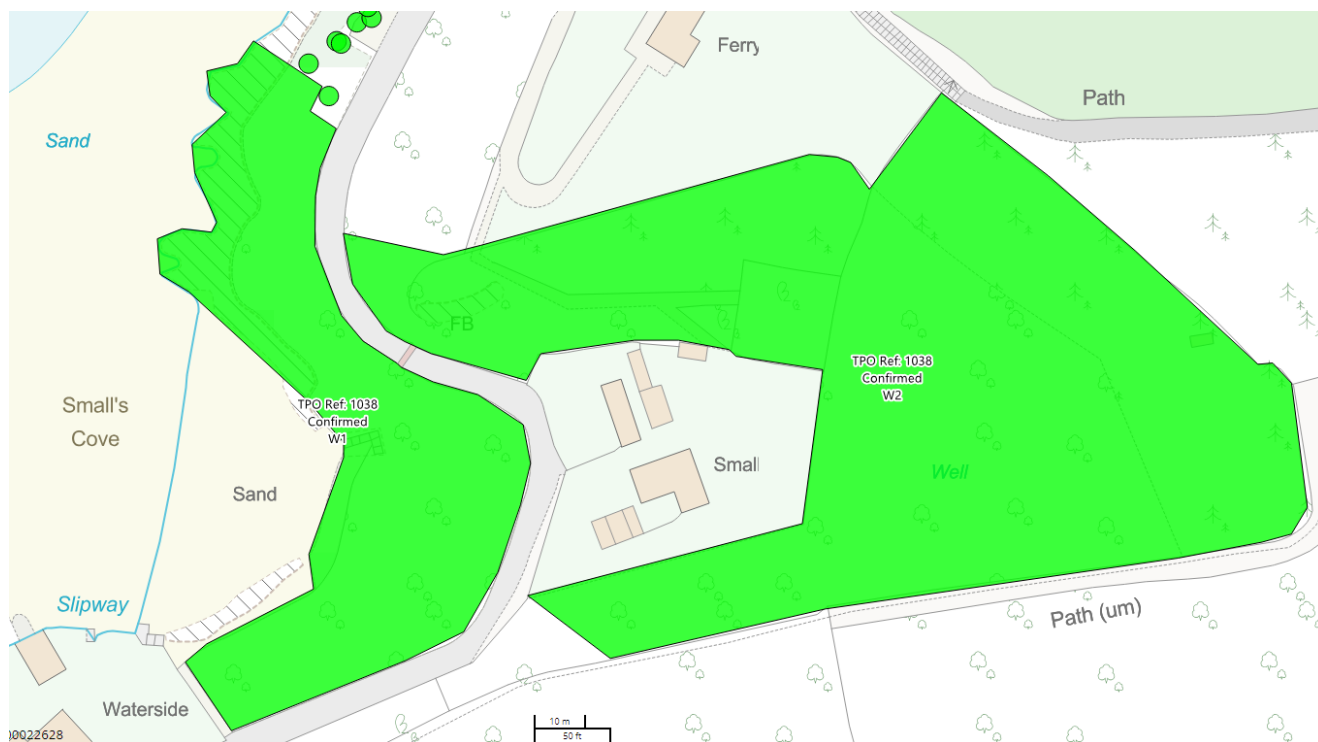
You cannot meet the general binding rules if the discharge will be in an ancient woodland or in or within 50 metres of any biological sites of special scientific interest (SSSI).

If you have or are planning to start a discharge to ground in or near a protected site, you must connect to the public foul sewer when it's reasonable to do so. You must apply for a permit if it's not'.

The location of the development is within 50 metres of the SSSI site. The LPA needs to be satisfied that it is necessary to include a sewage package treatment plant as part of this development in such a sensitive location when the applicant owns property curtilage greater than 50 metres from the SSSI site.

Tree Preservation Orders

The proposed site is with the grounds of the TPO1038 W1. The curtilage of Small Cottage is clearly defined and is more suitable for ancillary buildings.



As others have noted, trees are being removed and it is apparent that the applicant is in the process of transitioning woodland into domestic garden use.

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The South Devon Area of Outstanding Natural Beauty

Legislation and policies that protect the South Devon AONB are

Section 85 of the Countryside and Rights of Way (CRoW) Act;

Sections 12 and 15 of the NPPF in particular paragraphs; 130, and 174, 176 & 177;

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 including the Estuaries Management Plan.

Local Planning Policy - Landscape:

The statutory Development Plan comprises the Plymouth & South West Devon Joint Local Plan 2014-2034.

DEV23 Landscape Character

DEV24 Undeveloped Coast and Heritage Coast

DEV25 Nationally Protected Landscapes

The special qualities of the South Devon AONB considered to be most relevant to this application are:

'Fine, undeveloped wild and rugged coastline

Ria estuaries (drowned river valleys), steep combes and a network of associated watercourses

Iconic wide, unspoilt and expansive panoramic views

Landscape with a rich time depth and a wealth of historic features and cultural associations

A breadth and depth of significant habitats, species and associated natural events

Areas of high tranquillity, natural nightscapes, distinctive natural soundscapes and visible movement'.

Landscape Character:

The Site and the host landscape surrounding it are entirely within the South Devon AONB, a nationally important protected landscape designation as confirmed in the National Planning Policy Framework (NPPF). At the district level, the Site and its surroundings are also within the Undeveloped Coast designation of the Plymouth and South West Devon Joint Local Plan (PSWD JLP).

National Landscape Character Area: 151 South Devon

Devon Landscape Character Area: Salcombe to Kingsbridge Estuary

South Hams Landscape Character Types: LCT 3G River valley slopes and combes, and immediately adjacent to LCT 4A Estuaries.

At the county level, the Site and its surroundings are located in the Salcombe to Kingsbridge Estuary landscape character area (LCA). This is a waterside landscape where open water is juxtaposed with steep wooded valley sides that rise to rounded ridges between valleys and creeks. The tidal character of this area results in a continually changing scene, and views across and up and down the estuary are a defining feature.

LCT 3G is located across the district on the banks of the numerous rivers along the south-coast, including the Salcombe-Kingsbridge Estuary. The topography is characterised by rounded hills and steep undulating slopes, with branching narrow valley systems flowing into and overlooking their associated rivers and estuaries. It is a well-wooded landscape, with deciduous and mixed woodland located on the steeper slopes and the fringes of streams, creeks, rivers and estuaries, emphasising the landform. This is

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a secluded, rural, tranquil valley landscape which is not interrupted by modern large scale development or busy roads, and is valued for dark night skies.

‘LCT 4A Estuaries are dynamic landscapes which change often with tides and weather conditions. The estuaries are strongly naturalistic and tranquil with semi-natural habitats that are highly important for biodiversity, with the Salcombe-Kingsbridge estuary being particularly distinctive as there is no main river feeding it so it remains saline within its upper reaches. The estuaries act as a focus for adjoining areas of cliff and combes to create highly valued and visually attractive landscapes, with woodland cover on valley slopes, and particularly the overhanging woodlands extending to the water’s edge, contributing to the character of the estuaries. The landscape is popular with tourists and water-based recreation, providing for quiet enjoyment and ready access to the natural environment’.

In summary, the character and quality of the local landscape containing the Site is of national importance, as reflected in its designation as an AONB. The Kingsbridge-Salcombe Estuary is the dominant feature in the landscape and one that is a popular recreational resource, enjoyed throughout the year. Part of the character of the landscape is defined by the interplay between the estuary and its creeks and the adjoining land. Views within and across the area containing the Site are described as one of the key characteristics of the local landscape.

Recognised forces for change in landscape character include new development (including replacement modern dwellings) on the estuary sides, with significant pressure for further built development along estuary shorelines, with cumulative impacts on landscape, habitats and water quality.

The South Devon AONB Management Plan - South Devon AONB Planning Guidance

8.1 Coastal and Estuarine Development

A development in the coastal and estuarine zone that conserves and enhances the AONB will:

Maintain open views and seascapes free of visual intrusion;

Retain the overall extent and quality of foreshore and tidal habitats;

Retain the extent and tranquil character of undeveloped reaches of the coast and estuaries and direct any new construction to existing built up areas;

The South Devon AONB Management Plan - Estuaries Management Plan

‘The key principles to this vision are that:

- 1) the conservation of the estuaries is the responsibility of all those who use and enjoy them directly or indirectly, as well as the appropriate authorities and organisations;*
- 2) everything practical must be done to prevent the loss and degradation of each estuary’s natural, historic and archaeological resources, conserving their natural integrity and to improve them where they are in a damaged state;***
- 3) to ensure an awareness of the estuaries environment and the empowerment of the local community to make informed decisions about their use and future management;*
- 4) to encourage the sustainable use and enjoyment of our estuaries with a sense of their ownership and care;*

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- 5) ***where there is irreconcilable conflict between man's use of the estuaries and the conservation of the ecological and conservation value the latter will take preference (extension of the Sandford Principle which applies to National Parks)***

3.2 Planning & Sustainable Development

Relevant AONB Management Plan Policies

Plan/P1 Plan-making - adapted Planning policies will give due weight to the purpose of conserving and enhancing the natural beauty and special qualities of the South Devon AONB Estuaries; while supporting small scale development that is appropriate to its setting, is in keeping with its character, and meets the economic and social needs of local communities.

Plan/P2 Decision-taking Development management decisions will give great weight to the purpose of conserving and enhancing the natural beauty of the South Devon AONB; and support development that is appropriate and proportionate to its setting within or adjacent to the South Devon AONB

Plan/P3 Planning protocol - adapted Local Planning Authorities will consult the South Devon AONB Estuaries Partnership on planning policy and significant planning applications following the agreed planning protocol, and use the South Devon AONB Estuaries Management Plan as guidance to inform plan-making and decision-taking.

Additional Policy

Cumulative loss of seabed, foreshore and habitat extent. There shall be a strong presumption against any further loss in extent or quality of foreshore, seabed or habitat unless demonstrably in the wider public interest

The Society are of the opinion that these policies guide residential development away from this foreshore location and it should be obvious that it is unacceptable to have a dwelling on top of a boat store. It will introduce domestic living where there is none. It will introduce light pollution into an area that has none. It introduces cars and car parking into a landscape that has none. It introduces sewage package plants into an area where there are none.

The Society therefore respectfully requests that this planning application is refused.

For and on behalf of the South Hams Society

Richard Howell
Chairman