



PLANNING REF: 1159/21/FUL

DESCRIPTION: Erection of 21 residential dwellings (including 30% affordable homes) with associated amenities and infrastructure (Resubmission of 3320/20/FUL)

ADDRESS: Land at West End Garage Main Road Salcombe TQ8 8NA

27th July 2023

LETTER FROM THE SOUTH HAMS SOCIETY REGARDING IMPLEMENTATION OF PLANNING PERMISSION

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 Society is concerned that development 1159/21/FUL has commenced prior to receipt of written approval of pre-commencement of planning conditions 4, 10, 12, 13, 14, 21 and 25 of the consent.

The Society is also concerned that the local planning authority have shown a disappointing regard to its community in failing to allow an appropriate time to consult upon other pre-commencement planning conditions.

The pre-commencement conditions are as follows (bold text equals no written approval given).

3. **PRE-COMMENCEMENT:** *Before the development hereby permitted is commenced a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved CMP. No burning shall take place on site during the site clearance/demolition or construction phases of the development.*

The CMP shall include the following matters:

- a. all routes for construction traffic on the highway network and monitoring and review mechanisms.*
- b. compound locations with full details [position, size and appearance] in relations to site office/s, welfare units, building material storage areas, skip/s, concrete silo/s, on-site parking areas for construction workers, site access arrangements,*
- c. overburden/topsoil storage areas, fuel storage, hazardous materials storage*
- d. provision of boundary hoarding with publicly visible contact details [phone and email] for site manager and lighting*

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- e. details of proposed means of dust suppression
- f. details of equipment/plant noise suppression
- g. full piling details (if proposed)
- h. details of measures to prevent mud from vehicles leaving the site during construction including wheel washing facilities and their management
- i. details of deliveries times to the site during construction phase
- j. details of provision to ensure pedestrian and cycle safety
- k. programme of works (including measures for traffic management and operating hours and hours of construction)
- l. parking and turning for vehicles of site personnel, operatives and visitors
- m. loading and unloading of plant and materials
- n. storage of plant and materials
- o. maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the CMP throughout the construction period.
- p. Measures to avoid adverse impacts upon the Salcombe to Kingsbridge Estuary SSSI by virtue of silt and surface water runoff among any other potential risks.
- q. Reference and adherence to the most up to date pollution prevention guidance.

Reasons: In the interest of residential amenity, highway safety, to avoid the hazard caused by mud on the highway and to ensure minimal adverse impact on the public highway during the construction phase and to safeguard the SSSI. This must be agreed prior to commencement in order to avoid unacceptable impacts relating to construction and to ensure that such works are appropriately planned and agreed before implemented.

2283/23/ARC submitted with an application date: 4th July 2023

- 4. PRE-COMMENCEMENT: No development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:**
- a. **A detailed surface and foul water drainage design based upon the approved Flood Risk Assessment ref. 18015 (Trace Design, 2021) and Drainage Strategy (200 Rev E).**
 - b. **Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.**
 - c. **Proposals for the adoption and maintenance of the permanent surface water drainage system.**
 - d. **A plan indicating how exceedance flows will be safely managed at the site.**
 - e. **Evidence of the condition of the watercourse which the site proposes to drain into. This evidence could include photographs.**

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development, and to safeguard the water quality of the Salcombe to Kingsbridge Estuary SSSI. This condition must be agreed prior to commencement in order to avoid unacceptable impacts relating to the SSSI and to ensure that a suitable detailed drainage strategy is agreed before development commences because such a strategy is necessary in order to make the development acceptable.

2354/23/ARC submitted with an application date: 7th July 2023

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5. *PRE-COMMENCEMENT: Before the development hereby permitted is commenced a Construction Ecological Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved Plan.*

The CEMP shall include the following:

- a. Risk assessment of potentially damaging construction activities.*
- b. A reptile mitigation strategy.*
- c. Details of hedgehog holes and their implementation.*
- d. Identification of "biodiversity protection zones".*
- e. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- f. The location and timing of sensitive works to avoid harm to biodiversity features.*
- g. The times during construction when specialist ecologists need to be present on site to oversee works.*
- h. Responsible persons and lines of communication.*
- i. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- j. Use of protective fences, exclusion barriers and warning signs.*
- k. Containment, control and removal of any Invasive non-native species present on site.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species). And in accordance with policy DEV26. This condition must be agreed prior to commencement in order to avoid unacceptable impacts relating to construction and to ensure that such works are appropriately planned and agreed before implemented.

2283/23/ARC submitted with an application date: 4th July 2023

6. *PRE-COMMENCEMENT: No development shall commence until a 30 year Landscape and Ecological Management Plan (LEMP) has been submitted to, and be approved in writing by, the local planning authority.*

The content of the LEMP shall include the following:

- a. Habitat creation in accordance with the Biodiversity Impact Assessment: Losses and Gains document (Ecological Surveys Ltd, dated 24th February 2022).*
- b. Description and evaluation of features to be managed.*
- c. Ecological trends and constraints on site that might influence management.*
- d. Aims and objectives of management.*
- e. Appropriate management options for achieving aims and objectives.*
- f. Prescriptions for management actions.*
- g. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
- h. Details of the body or organisation responsible for implementation of the plan.*
- i. Ongoing monitoring and remedial measures.*

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The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species). And in accordance with policy DEV26. This condition must be agreed prior to commencement in order to ensure that adequate plans and measures are put into place for habitat creation and management at the point that development first takes place.

1016/23/ARC submitted with an application date: 20th March 2023 (incorrectly given written approval because superseded drawings were submitted)

7. The development shall be carried out in accordance with the retention and protection measures included within the approved Arboricultural Impact Assessment: TH/A432/0920.

Reason: To ensure that existing trees are adequately safeguarded, in accordance with policy DEV28.

8. The development shall be carried out in accordance with the recommendations, mitigation, and enhancement measures contained within the approved Ecological Appraisal (Ecological Surveys Ltd, March 2017) and Bat Activity Report (Ecological Surveys Ltd, October 2017).

Reason: In the interests of safeguarding ecology and protected/priority species, and providing for net gains to biodiversity, and in accordance with policy DEV26.

10. PRE-COMMENCEMENT: Prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures if required, shall be carried out and the results submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved mitigation as may be required.

Reason: To safeguard protected species, and in accordance with policy DEV26. This condition must be agreed prior to commencement in order to avoid unacceptable impacts relating to construction and the carrying out of development.

2283/23/ARC submitted with an application date: 4th July 2023

11. No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this submitted to the Local Planning Authority.

Reason: To safeguard ecology/nesting birds, and in accordance with policy DEV26.

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12. PRE-COMMENCEMENT: No development shall commence until a detailed Landform/Engineering Plan (LEP) has been submitted to and approved in writing by the local planning authority. The LEP shall include existing and all proposed levels for the site, including finished floor levels for buildings; and provide details of any landscape retaining features, their form and appearance.

Reason: In the interests of residential and visual amenity, and the character and appearance of the area, noting the existing topography and likelihood of landform changes especially along the western site boundary. In accordance with policies DEV20, DEV23, DEV24, DEV25, SALC ENV1 and B1.

This condition must be agreed prior to commencement because of the site constraints and sensitive landscape setting where land re-profiling will form part of the construction works undertaken.

2283/23/ARC submitted with an application date: 4th July 2023

13. PRE-COMMENCEMENT: No development shall commence until a precise 'hard' and 'soft' Landscaping Scheme has been submitted to, and approved in writing by, the Local Planning Authority.

The 'hard' landscaping details shall include details of all hard surface materials and boundary treatments to be used within the development with a timetable for implementation, including all means of enclosure and boundary treatments (including any gate details and means of security for private external areas), residential screen walls and fences (including material, design, finish, and colour). The 'hard' landscaping details shall be accompanied by appropriate design justification as to their suitability for their setting.

The 'hard' landscaping details shall be implemented and completed in accordance with the approved details and agreed timetable. The approved boundary treatments shall then be retained in the approved form.

The 'soft' landscaping details shall include details (including species, size of stock at time of planting, location) of all new shrubs/plants and trees to be provided as well as any areas for seeding. The new landscaping should comprise of native species only as defined in Schedules 2 and 3 of the Hedgerow Regulations 1997.

The 'soft' landscaping details shall be implemented and carried out as approved, with new planting undertaken in the first planting season (October - March inclusive) following the commencement of development.

Any trees, hedges, shrubs or turf identified within the approved Landscaping Scheme (both proposed planting and existing within the site) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted or in the case of existing planting within a period of 10 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.

All elements of the approved hard and soft landscaping scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the

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local planning authority. All work shall be completed in accordance with the timetable agreed as part of this condition.

Reason: In the interests of visual amenity and the character and appearance of the area. This condition is required to be agreed prior to the commencement of development to ensure that the landscaping is appropriately designed and implemented in conjunction with construction phasing. An extended aftercare period is required in light of the importance of the strategic landscape buffer and the need for the development to successfully assimilate into its landscape setting. In accordance with policies DEV20, DEV23, DEV24, DEV25, SALC ENV1 and B1. This condition must be agreed prior to commencement because of the site constraints and sensitive landscape setting where protective measures and suitable plans for planting must be in place before development first takes place so as to avoid harm and provide suitable mitigation.

2283/23/ARC submitted with an application date: 4th July 2023 (recorded as not acceptable on the 21st July 2023)

14. PRE-COMMENCEMENT: No works or development shall take place until written evidence of a contractual agreement for the supply, planting, maintenance of all the landscaping agreed under condition 13, and a replacement guarantee over that same period by the same contractor, has been approved in writing by the LPA.

Reason: The landscaping is an essential part of the development to make it acceptable and comply with the allocation policy. It needs to be agreed prior to commencement to give assurance it will be carried out as appropriate.

2354/23/ARC submitted with an application date: 7th July 2023

16. PRE-COMMENCEMENT: No development shall commence until details for the provision and implementation of electric car charging points for all properties to be constructed has been submitted to, and approved in writing by, the Local Planning Authority, to accord with the JLP SPD. The approved measures shall be provided and made available for use prior to first occupation/use of the parking space it relates to. For the avoidance of doubt, each charging point must be at least 7kw.

Reason: To ensure that the development is securing appropriate net gains for the environmental objective of sustainability and transition to a low carbon economy. This is required before commencement to ensure compliance with DEV32.

1016/23/ARC submitted with an application date: 20th March 2023

18. PRE-COMMENCEMENT: Notwithstanding the submitted details, no development shall commence until a Waste Management Plan ('WMP') has been submitted to and approved in writing by the Local Planning Authority. The WMP shall demonstrate how the construction and operational phases of the development will minimise the generation of waste, having been prepared in accordance with the provisions of Policy W4 of the Devon Waste Plan and its supporting Supplementary Planning Document.

The development shall be carried out in accordance with the approved WMP.

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Reason: To minimise and properly manage waste arising from the development, in accordance with policy DEV31, and policy W4 of the Devon Waste Plan. The document provided with the application was insufficient and requires revision/amplification. This condition must be agreed prior to commencement in order to ensure that from a waste management perspective such works are appropriately planned and agreed before implemented.

1016/23/ARC submitted with an application date: 20th March 2023

21. *The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins.*

For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals and suitable highway infrastructure is provided to serve the development in accordance with policy DEV29.

The Society can find no evidence of an application for this condition. We believe that this part of the development has begun.

24. *PRE-COMMENCEMENT: Prior to commencement of development on any part of the site, including any site clearance works or machinery is brought onto site, a road condition survey shall be submitted and approved in writing by the Local Planning Authority.*

Reason: In the interests of road integrity and highway safety, and in accordance with policy DEV29. This condition must be agreed prior to commencement in order to avoid unacceptable impacts relating to construction and occupation and to ensure that such works are appropriately planned and agreed before implemented.

2283/23/ARC submitted with an application date: 4th July 2023

25. *PRE-COMMENCEMENT: Prior to the commencement of development an Employment and Skills Plan ('ESP') shall be submitted to and approved in writing by the Local Planning Authority. The ESP shall include detailed measures to support local employment, skills and training development opportunities in the construction industry and in relation to the development from site preparations through to the end of the construction phase. The approved ESP shall be implemented and adhered to during the construction of the development and in accordance with those details approved.*

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Reason: In accordance with policy DEV19 this condition is required on the basis that to properly provide for the required plan-led growth it is necessary to ensure a commensurate growth in the area's employment base, where it is recognised to require investment both in job growth and skills, with both Science, Technology, Engineering and Maths (STEM) and construction jobs/skills being of primary importance. This condition must be agreed prior to commencement in order to ensure that local construction employment and skills opportunities are maximised from the site and construction preparation stage before development commences.

2354/23/ARC submitted with an application date: 7th July 2023

The Society includes conditions 7, 8 and 11 because we believe there are issues regarding compliance even though they are not pre-commencement conditions.

The local planning authority have clearly advised the owner that:

'THE FOLLOWING CONDITIONS 12 AND 13 STILL REQUIRE CONSIDERATION AND AGREEMENT IN THEIR OWN RIGHT BEFORE A FINAL DECISION CAN BE GIVEN'

Extract of the decision that contains that statement:



Follaton House, Plymouth Road, Totnes, Devon TQ9 5NE
Telephone: (01803) 861234 DX 300050 TOTNES 2
Fax: (01803) 861166

Please reply to: Case Management Team (Development Management)
E-Mail: dm@southhams.gov.uk

Providing that the development above is carried out in accordance with the details submitted, then Condition Number 24 of the above planning permission can be discharged.

THE FOLLOWING CONDITIONS 12 AND 13 STILL REQUIRE CONSIDERATION AND AGREEMENT IN THEIR OWN RIGHT BEFORE A FINAL DECISION CAN BE GIVEN

On Monday the 24th July the Society visited the site to see the extent of the works that have already commenced.

As the following image shows, ground works are well underway including first stages of road laying and compacting.



Conditions 12 and 13 are both PRE-commencement conditions. The letter is dated the 13th July 2023.

The two conditions were applied for within application 2283/23/ARC with an application date of the 4th July 2023. Four days before we took the image above, on Friday the 21st July, Amanda Urmson CMLI Senior Specialist – Natural Environment (Landscape) wrote a response where she states '*I am unable to support the discharge of Condition 13 for the reasons explained below*'.

We reproduce that letter in full.

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Date: 21 July 2023

Reference: 2283/23/ARC

Description: Application for approval of details reserved by conditions 3 (CMP), 5 (CEMP), 10 (Badger Survey), 12 (Levels), 13 (Landscape) and 24 (Road Survey) of planning consent 1159/21/FUL

Site Address: Field East Of Motherhill Farm At Sx73139, Main Road, Salcombe,

This response is based upon an examination of the planning file and submitted plans and GIS mapping.

Please find below my response to the Condition Discharge request in respect of Condition 13 (Hard and Soft Landscape scheme) of approved planning consent 1159/21/FUL. These comments are based on my review of the following information:

- Soft Landscape Plan Ornamental Planting, 048 04 L 02 01 Rev P1
- Soft Landscape Plan Screen Planting, 048 04 L 02 02 Rev P1
- Soft Landscape Plan Seed mixes, 048 04 L 02 03 Rev P1
- Soft Landscape Planting Schedule, 048 04 L 02 05 Rev P1
- Hard Landscape Plan, 048 04 L 02 04 Rev P3

I am unable to support the discharge of Condition 13 for the reasons explained below.

Condition 13. PRE-COMMENCEMENT: *No development shall commence until a precise 'hard' and 'soft' Landscaping Scheme has been submitted to, and approved in writing by, the Local Planning Authority.*

The 'hard' landscaping details shall include details of all hard surface materials and boundary treatments to be used within the development with a timetable for implementation, including all means of enclosure and boundary treatments (including any gate details and means of security for private external areas), residential screen walls and fences (including material, design, finish, and colour). The 'hard' landscaping details shall be accompanied by appropriate design justification as to their suitability for their setting.

The 'hard' landscaping details shall be implemented and completed in accordance with the approved details and agreed timetable. The approved boundary treatments shall then be retained in the approved form.

The 'soft' landscaping details shall include details (including species, size of stock at time of planting, location) of all new shrubs/plants and trees to be provided as well as any areas for seeding. The new landscaping should comprise of native species only as defined in Schedules 2 and 3 of the Hedgerow Regulations 1997.

The 'soft' landscaping details shall be implemented and carried out as approved, with new planting undertaken in the first planting season (October - March inclusive) following the commencement of development.

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Any trees, hedges, shrubs or turf identified within the approved Landscaping Scheme (both proposed planting and existing within the site) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted or in the case of existing planting within a period of 10 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.

All elements of the approved hard and soft landscaping scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. All work shall be completed in accordance with the timetable agreed as part of this condition.

Reason: In the interests of visual amenity and the character and appearance of the area. This condition is required to be agreed prior to the commencement of development to ensure that the landscaping is appropriately designed and implemented in conjunction with construction phasing. An extended aftercare period is required in light of the importance of the strategic landscape buffer and the need for the development to successfully assimilate into its landscape setting. In accordance with policies DEV20, DEV23, DEV24, DEV25, SALC ENV1 and B1. This condition must be agreed prior to commencement because of the site constraints and sensitive landscape setting where protective measures and suitable plans for planting must be in place before development first takes place so as to avoid harm and provide suitable mitigation.

Comment:

Hard Landscape: The plan provided only illustrates paving materials and street furniture, which are acceptable. However, **apart from the GT1 gates, no means of enclosure or boundary treatments other than the hedges have been confirmed.**

- **Gates** - Details for all gates should be confirmed – only 3 GT1 have been identified specifically on the Hard Landscape plans, although there are on-plot gates securing the rear gardens, which are not explained.
- **Fences** – shown on the Boundary Treatments plan submitted for 1159/21/FUL but not for this application.
- **Timber decking** - no details confirming the dimensions, design and appearance have been provided.
- **Steps** – no details provided.
- **Retaining walls** – no details provided.
- Retaining wall that project into the area of Strategic Landscape Buffer along the western boundary of the site: concerns have previously been expressed about the use of heavily engineered features in this area, which would stand out against the surrounding, natural rolling topography, further clarification is sought on the detailed levels and appearance of these elements of the proposals. Section plans would help to explain the intentions, and should clearly show the position of the proposed hedges in relation to level changes and retaining features.

Soft Landscape:

- **A large number of the trees and shrubs specified are non-native, which is contrary to the specific requirements of the condition.** The only locations

where non-native planting is supportable is for the two limited areas of amenity planting (plots 14 and 18-21), where the ornamental plants listed in the Amenity Plan Mix are considered acceptable. In addition, I will accept Sycamore (*Acer pseudoplatanus*) in the tree planting proposals.

- Otherwise, acceptable native species are those listed on Schedules 2 and 3 of the Hedgerow Regulations, but **should exclude Ash (*Fraxinus* species) which is listed in the screen planting trees and is not accepted** given the prevalence of ash dieback disease, and should exclude Elm (*Ulmus* species), not currently specified, but unacceptable due to the prevalence of Dutch elm disease.
- The western hedge on the boundary of plots 9 -13, adjacent to the western screen planting, is shown as 'Native Evergreen Hedge' on the Ornamental plan. **No details are provided to explain the species mix for the Native Evergreen hedge**, nor is it clear whether the hedges will be on plot, on the plot boundary, or in the western screen planting behind a fence or retaining wall?
- Only a limited number of native pines are specified, which is disappointing when substantial pine trees are a feature of Salcombe.
- Specific concerns about potentially invasive plants in the western screen planting understorey: Cotoneaster is proposed as understorey planting in Zone A, which is a non-native plant, closely related to the invasive species found on Schedule 9 of the Wildlife and Countryside Act, and should be omitted. Similarly, *Rubus tricolour*, whilst not yet on the Schedule 9 list, is a very invasive, non-native plant, which should be omitted.
- **Public Open Spaces** –Natural surveillance of the Orchard area could be improved by either removing the hedge alongside the parking spaces, or by managing the hedge to a lower height to allow clear views in. *No specific management details were provided within the LEMP, which was approved under DOC application 1016/23/ARC on 7 June 2023.*
- **Bulbs** - daffodils and other bulbs could be used more widely across the meadow areas of the site but are only listed in the Amenity Plant Mix.

Some of the above concerns have been raised previously, prior to conditional approval of 1159/21/FUL, in comments made to the Case Officer, and to the applicant, and the lack of locally appropriate and native planting was one reason for imposing a condition requiring a fully detailed hard and soft landscape scheme.

LEMP – Condition 6 of 1159/21/FUL:

I note that the LEMP was approved in the Split Decision issued for 1016/23/ARC on 7 June 2023. Landscape Specialists raised the following concern about the document: *the Landscape plans in Appendix I of the LEMP document are not the latest versions that were presented for comment prior to 1159/21/FUL, and Condition 13 of 1159/21/FUL requiring a "precise 'hard' and 'soft' landscaping scheme" had not been discharged. The plans referenced in the LEMP should be the final, approved landscape scheme, and not earlier (superseded) versions of proposals presented for full planning approval.*

It is clear that further revisions to the detailed landscape proposals will be required. I strongly recommend that, when an acceptable hard and soft landscape scheme is submitted for approval to discharge C13, a fully revised and updated LEMP is also re-submitted at the same time to re-discharge

Condition 6, to ensure that it reflects the approved landscape scheme. In addition, Condition 6 requires a 30 year LEMP plan, and the S106 agreement, Schedule 4.4 requires implementation to be *'in accordance with the details and timescale set out therein and to manage and maintain ... in perpetuity'*.

However, I could only find reference throughout the LEMP document to a period of five years following implementation of the approved landscape scheme. **There should be some provision within section 3 of the text to confirm that at the end of the 5 year period there will be a review of the LEMP, and a re-approval process to roll the plan forwards for further five year periods (or longer, to be agreed with the LPA), so that the full 30-year period requirement in Condition 6 is clearly demonstrated. It should also make reference to rolling forward any future revisions of the LEMP in order to meet the 'in perpetuity' requirement of the S106 agreement - both obligations be referenced, and the mechanisms for review and re-approval clearly stated.**

Recommendation:

I am unable to support the discharge of Condition 13 for the reasons explained above.

**Amanda Urmson, CMLI
Senior Specialist – Natural Environment (Landscape)
South Hams District Council | West Devon Borough Council**

It is obvious from the content of the letter that condition 6 was given approval on the 7th June 2023 with planning application 1016/23/ARC when it should not have been, because it was superseded by drawings subsequently submitted.

For planning application 2283/23/ARC, application date 4th July 2023, the local planning authority wrote a letter to the agent dated 13th July 2023 where the LPA stated, - as has been previously illustrated, that both conditions 12 & 13 still require consideration and agreement, a mere 6 working days prior to the image we include being taken.

It is therefore clear that the planning permission 1159/21/FUL has been commenced but has not been implemented lawfully as pre-commencement conditions 4, 10, 12, 13, 14, 21 and 25 of the consent have not receive written approval.

The commencement also leads us to ask the LPA to confirm that the Authority have been notified of the commencement of the development in accordance with the 106 agreement paragraph 4.12

- 4.12. The Owner shall inform the Council and the County Council a minimum of 10 (ten) Working Days in advance by notices in writing of the date on which the Owner intends to Commence Development and to inform the Council and the County Council by notice in writing within 7 (seven) Working Days of Commencement of Development such notices to be sent in writing to the Council at the address aforementioned and marked for the attention of the Head of Planning and to the County Council at the address aforementioned and marked for the attention of the Council Solicitor.

That the site owners have complied with paragraph 2.3

- 2.3. Prior to the Commencement of Development to submit the Affordable Housing Scheme to the Council.

That the mitigation contribution has been paid to the Council and therefore the following agreements 1 & 2 have been complied with.

The Owner covenants with the Council as follows:

Cirl Bunting Mitigation Contribution

1. Prior to the Commencement of Development to pay the Cirl Bunting Mitigation Contribution to the Council
2. Not to Commence Development until the Cirl Bunting Mitigation Contribution has been paid to the Council

That the monitoring fees have been paid and the therefore this agreement complied with.

Monitoring Fee

7. Prior to the Commencement of Development to pay the Monitoring Fee to the Council
8. Not to Commence Development until the Monitoring Fee has been paid to the Council

In addition, the Society have looked at the Construction Ecological Management Plan.

Condition 5:

2. In respect of Condition Number 5: the Local Planning Authority hereby confirm that the following details:

- CEMP_MotherhillFarm_ParkGreen_June2023V4

received by the Local Planning Authority on 4 July 2023 are considered acceptable for the following reasons:

We refer the LPA to this paragraph on page 14 of the approved document:

The timetable of monitoring work to be undertaken by the Ecological Clerk of Works, with respect to the ecological mitigation measures (including pre-construction surveys), is set out in Table 8.1 in chapter 8. *Monitoring*.

We also refer the LPA to table 6.1 for current important ecological features.

Nesting/breeding birds	<p>Groundworks phase</p> <ul style="list-style-type: none"> ➤ Damage by machinery, storage of materials and chemical spills to hedgebanks, hedgerow and trees. <p>Construction phase</p> <ul style="list-style-type: none"> ➤ Damage by machinery, storage of materials and chemical spills to hedgebanks, hedgerow and trees. 	<ul style="list-style-type: none"> ➤ Retention of majority of hedgebanks, hedgerow and trees along the site boundaries. ➤ Removal of hedgebank and any woody species on it outside of bird nesting/breeding season ➤ Construction Exclusion Zones with silt fencing around all hedgebanks, hedgerow and trees. ➤ Artificial Lighting Strategy: no lighting onsite during groundworks and construction phases ➤ New sections of Devon hedgebank. ➤ New species-rich hedgerow. 	<p>Potential for nesting in hedgebanks, hedgerow and trees. No cirl bunting were recorded onsite. In-built bird boxes included as enhancement.</p>
Reptiles	<p>Groundworks phase</p> <ul style="list-style-type: none"> ➤ Damage by machinery, storage of materials and chemical spills to hedgebanks. ➤ Injury due to machinery and open trenches/ pipework. <p>Construction phase</p> <ul style="list-style-type: none"> ➤ Damage by machinery, storage of materials and chemical spills to hedgebanks.. ➤ Injury due to machinery and open trenches/ pipework. ➤ Limitation to species movement across site. 	<ul style="list-style-type: none"> ➤ Retention of majority of hedgebanks, hedgerow and trees along the site boundaries. ➤ Watching brief for removal of section of hedgebank ➤ Construction Exclusion Zones with silt fencing around all hedgebanks.. ➤ Covered trenching and capped pipework. ➤ Raised fencing/gaps in fencing across site. ➤ New sections of Devon hedgebank. 	<p>Potential for species within hedgebanks.</p>

It is obvious that these mitigation measures are not being followed. There is no SILT fencing visible, it does not appear that the exclusion zone fence is the required 3 metres distance from the hedgerow neighbouring the Beaden Estate, where Cirl Buntings have been recorded by residents. There is no signage visible.

We ask the LPA to investigate whether pre-construction surveys were in fact completed by the Ecological Clerk of Works?

5.3.5 Ecological Clerk of Works

The aim of the Ecological Clerk of Works is to help protect important ecological features by resolving any constraints. Their key duties are as follow:

- Monitor compliance to wildlife and environmental legislation, planning conditions (planning documents) and, if appropriate, licensing conditions.
- Ensure adherence to the ecological mitigation measures set out in this Plan.
- Identify construction site constraints and survey methods.
- Ensure all construction workers are aware of the ecological mitigation measures and the existence of this Plan.
- Communication on-site and client and stakeholder liaison.
- Record-keeping.
- Reporting monthly to South Hams District Council for the duration of the groundworks and construction phases of the development.

Attendance duties on site include:

- Determine scheduled activities regularly.
- Attend construction meetings when possible/appropriate.
- Inspection of construction operations especially at beginning and end of shifts to check trenches/openings are covered and animals are not trapped.
- Ensure site activities do not compromise important ecological features on site.
- Supervised activities would include: erection of Construction Exclusion Zone fencing particularly along the hedgebanks and hedgerow and around areas for habitat/landscape creation, particularly along the western site boundary.
- Attendance on site in case protected species are found.

The timetable of monitoring work to be undertaken by the Ecological Clerk of Works, with respect to the ecological mitigation measures (including pre-construction surveys), is set out in Table 8.1 in chapter 8. *Monitoring*.

Page 18:

6.2 Ecological Mitigation Measures

The ecological mitigation measures required to enable this development to meet the required legislation both during the groundworks/pre-construction and the construction phases are set out below. They will be implemented in full and overseen by an Ecological Clerk of Works/suitably experienced ecologist.

All the mitigation measures are mapped in Figure 6.1.

Toolbox talks

Groundworks will not commence until a toolbox talk on protected and important species has been given to site operatives by the Ecological Clerk of Works (or others as stated below) to make them aware of the possible presence of protected and priority species, their legal protection and of working practices to avoid harming them. Further talks will be given at the following stages within the groundworks phase (as well as during the construction phase):

- Immediately prior to commencement of the removal of hedgebank section along eastern site boundary.
- Once the Construction Exclusion Zones and the associated silt fencing are in place (to explain the reasons for their use).

Further talks may be given during this phase of the development if determined appropriate by the Ecological Clerk of Works.

Condition 11 states:

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this submitted to the Local Planning Authority.

We ask the LPA to confirm that they have received a record from a suitably qualified ecologist as required by condition 11, because the hedgerows have been removed during the nesting season.

Page 21 of the CEMP:

Appropriate timing of woody species removal

Removal of any woody species within the hedgebank, including the short section of hedge along the eastern boundary to accommodate the new site access, will be done outside of the bird nesting season which runs from March to September (inclusive). If this is not possible, a suitably experienced Ecologist/Ecological Clerk of Works will undertake a search for active nests immediately before the clearance. If an active nest is encountered, a five-metre protective buffer will be erected around it (using temporary fencing accompanied by suitable signage) until all young have fully fledged. The Ecologist/Ecological Clerk of Works will be notified and will provide instruction when works can recommence within the five-metre protective area.

Maintenance of silt fencing

The silt fencing along the bottom of the CEZ fencing will be maintained and checked weekly until the end of the construction phase. Once all construction works and major groundworks have been completed the silt fencing can be removed.

There is no silt fencing installed as can be seen from the two images included in this letter. We ask why the Ecologist of Works has not stressed the importance of silt fencing? (might this be because the contractor has ignored the CEMP requirements?).

7.2 Surface Water Management (page 28)

- Attenuation ponds within each identified drainage catchment to be constructed first and used to attenuate and store run-off from the site during construction to prevent contamination of the surface and ground- waters.
- Site fencing will be erected along the bottom of the temporary fencing delineating the Construction Exclusion Zones (CEZs) to protect the hedgebanks and adjacent field during the groundworks and construction phases to avoid potential runoff of water and soil. This silt fencing will be erected prior to commencement of the groundworks/pre-construction phase of the development and will remain in place until completion of the construction phase. It will be checked daily to ensure it remains intact and fully functioning. This will also ensure that no surface water, silt or pollutants run into the Salcombe to Kingsbridge Estuary Site of Special Scientific Interest (SSSI).

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Here the Society do not believe that paragraph 7.2 has been complied with.

Monitoring requirements 1 to 4 of table 8.1 should have been completed.

Table 8.1 Monitoring requirements for the ecological mitigation measures

Mitigation measure	Monitoring requirement	
	Groundworks	Construction phase
1. Ecological Watching Brief for removal of section of hedgebank.	1. ECoW ¹ to supervise and oversee hedgebank removal.	N/a
2. Appropriate timing of woody species removal outside of bird nesting / breeding season.	1. ECoW ¹ to oversee.	1. ECoW ¹ to oversee.
3. Construction Exclusion Zones (CEZs).	1. ECoW ¹ to oversee erection of CEZ fencing.	1. ECoW ¹ to check CEZ fencing.
4. Silt fencing.	1. ECoW ¹ to oversee erection of silt fencing.	1. ECoW ¹ to check silt fencing.
5. No open trenches or pipework at night.	1. ECoW ¹ to check weekly.	1. ECoW ¹ to check weekly.
6. No artificial lighting on site.	1. ECoW ¹ to check weekly.	1. ECoW ¹ to check weekly.
7. In-built provision of bat, bird and bee nesting / roosting.	N/a	1. ECoW ¹ to check.
8. Raised fencing/gaps in fencing to allow movement of species.	N/a	1. ECoW ¹ to check.
9. Creation of new lengths of Devon hedgebank	N/a	1. ECoW ¹ to check.
10. Creation of new length of species-rich hedgerow	N/a	1. ECoW ¹ to check.

[ECoW¹ - Ecological Clerk of Works]

The Society now turn to the consultation time allowed by the LPA. Salcombe Town Council publish applications that affect the town on their website and give a response date for members of the public as advised by SHDC.



Appendix July'23 P

1) PLANNING APPLICATIONS

NB: Members of the public please note. District Planning only make the following applications available online at www.southhams.gov.uk. If any copies of letters to SHDC, stating objections or support for these applications, could be made available for the Town Council when it is making its recommendations it would be very helpful. Members of the public are very welcome to arrange to speak in the Open Forum section of the meeting by whatever means allow safe participation.

a) For Councillors to consider the following applications and send observations to the District as the Planning Authority:

1963/23/VAR Variation of conditions 2 (approved drawings) 8 (landscaping details) & 19 (installation details of externally mounted plant) of planning consent 0697/21/VAR. Site of Former Workshop, Gould Road, Salcombe, TQ8 8DU **RESPONSE due by 3 August 2023.**

2107/23/HHO Householder application for extension & alteration to include new raised roof to form habitable accommodation at first floor, new & revised fenestration & replacement garage (Resubmission of 3230/22/HHO). Collaton Farm, Malborough TQ7 3DJ **RESPONSE due by 3 August 2023.**

2429/22/FUL READVERTISEMENT (revised drawings) Installation of ball retention nets behind goal posts at both ends of Rugby pitch. Two Meads, Camperdown Road, Salcombe, TQ8 8AX **RESPONSE due by 3 August 2023.**

2259/23/ADV

Advertisement Consent for 'Twisted Marine' fascia signage on 2 elevations of the South (principle) elevation and 2 fascia signs on the North water side of the business measuring 0.4mtrs (height) 5.25mtrs (width) 0.05mtrs (depth). Brewery Quay, Island Street, Salcombe **RESPONSE due by 10 August 2023**

2258/23/FUL Change of use of redundant ground floor unit (Class E) to holiday let with associated works. Church Hill Flats, Market Street, Salcombe **RESPONSE due by 17 August 2023**

2272/23/VAR Application for variation of condition 2 (approved plans) following planning consent 3025/21/FUL. 14a, Fore Street, Salcombe, TQ8 8BU **RESPONSE due by 17 August 2023**

2232/23/HHO House holder application for renovation & extension to an existing dwelling with associated landscaping. The Bolt, Bolthead, Salcombe, TQ8 8LL **RESPONSE due by 17 August 2023**

2339/23/LBC Listed building consent for reconstruction of stone chimney. The Watch House, Fore Street, Salcombe, TQ8 8JE **RESPONSE due by 17 August 2023**

2344/23/FUL New rooflights and dormers to roof, 3 Church Hill Flats, Market Street, Salcombe, TQ8 8DE **RESPONSE due by 17 August 2023**

2230/23/HHO Householder application for single storey extension & works to existing window to create new entrance, alterations to external terrace & steps. Rockhaven, Courtenay Street, Salcombe, TQ8 8DQ **RESPONSE due by 24 August 2023**

b) Although there is no statutory consultation requirement on the applications below, for Councillors to consider the following applications and send observations to the District as the

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Planning Authority:

1704/23/ARC Application for approval of details reserved by conditions 2 (Accord with Plans) and 3 (Materials) of planning consent 41/2322/11/F Development Site At Four Winds Devon Road Salcombe **RESPONSE due by 19 July 2023**

2216/23/ARC Application for approval of details reserved by condition 4 (CMP) of planning consent 0066/23/HHO Hillcot, Bennett Road, Salcombe, TQ8 8JJ **RESPONSE due by 22 August 2023**

2283/23/ARC Application for approval of details reserved by conditions 3 (CMP), 5 (CEMP), 10 (Badger Survey), 12 (Levels), 13 (Landscape) and 24 (Road Survey) of planning consent 1159/21/FUL
Field East Of Motherhill Farm At Sx73139 Main Road Salcombe **RESPONSE due by 29 August 2023**

2354/23/ARC Application for approval of details reserved by conditions 4 (Surface / Foul Water Drainage) 14 (Landscaping Supply) and 25 (Employment and Skills Plan) of planning consent 1159/21/FUL
Field East Of Motherhill Farm At Sx73139 Main Road Salcombe **RESPONSE due by 01 September 2023**

2233/23/ARC Application for approval of details reserved by condition 3 (CMP) of planning consent 0459/23/VAR Folly End Folly Lane Salcombe TQ8 8BT **RESPONSE due by 24 August 2023**

2250/23/ARC Application for approval of details reserved by conditions 4 (Natural Roofing Slate) & 5 (Stone Walls) of planning consent 2363/22/FUL Sunnysdale Newton Road Salcombe TQ8 8HH **RESPONSE due by 25 August 2023**

c) *The following application was considered since the last meeting and observations duly sent to the District as Planning Authority:*

None

d) *Application For Works To A Tree Preservation Order Tree*

i) The below are for consideration and response to be submitted to District as the Planning Authority:

2262/23/TPO T001: Monterey Cypress - fell due to being too large for surroundings detracting from the wooded broadleaf character of the area, dominating and suppressing key highway trees, root bulge in footpath, replace trees with an Acer Tataricum, an Ceicis Siliquastrum, an Elaeagnus Angustifolia and Olea Europae. Rippling Water, Herbert Road, Salcombe, TQ8 8HN **RESPONSE DUE BY 11th August 2023**

ii) The below were considered since the last meeting and a response submitted to District as the Planning Authority:

None

2) LICENSING APPLICATIONS

None

The town council have notified their residents that for application 2283/23/ARC, members of the public should respond by 29th August 2023. Details were placed online on the 7th July 2023. Four days later, on the 13th July 2023, the LPA issued a written approval for conditions 3, 5, 10 and 24. It is now too late to write to the LPA and the Society are of the opinion that this is unacceptable conduct by the LPA.

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In conclusion, the Society ask the local planning authority to investigate the issues highlighted within this letter, including completing a breach of planning condition investigation.

When considering the Garden Mill site at Kingsbridge and the finding that that development was unlawfully implemented, it is apparent that the same issues are present at the 'Land at West End Garage Main Road Salcombe' site and, as a consequence, that this development has also been unlawfully implemented.

The LPA should also consider the raised bank of earth alongside the Beaden Estate hedgerow. When wind from a northerly deirection occurs, soil dust will shear off the bank smothering the hedgerow (and neighbours) in soil dust. The site is very exposed!

For and on behalf of the South Hams Society

Richard Howell

Chairman.

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