

PLANNING APPLICATION REPORT

Case Officer: Steven Stroud
Thurlestone

Parish: South Huish **Ward:** Salcombe and

Application No: 3847/22/FUL

Agent/Applicant:

Mr Kenneth Gorman - KPG Design
Associates Ltd
The Limes
Bayshill Road
Cheltenham
GL50 3AW

Applicant:

Mr Bruce Brooker - BB Properties (Devon)
Ltd
2 Nd Floor
113a Fore Street
Kingsbridge
TQ7 4RG

Site Address: Land At SX 680 402 east of Thornlea View, Hope Cove

Development: Erection of 6 semi-detached two bedroom affordable dwellings, 4 detached four bedroom houses with detached double garages, associated new highway access & service road, foul & rainwater drainage strategy, landscape & habitat creation measures & detail (resubmission of 1303/21/FUL)

Recommendation: Refuse

Reasons for Refusal:

1. The development represents new development in the countryside, in a poorly connected location outside of the defined settlement boundary, and is without adequate justification, contrary to the adopted spatial strategy of an up-to-date development plan. As a result, the development is not considered to support the principles of sustainable development and is contrary to policies SPT1, SPT2, TTV1, TTV26, and TTV27 of the Joint Local Plan ('JLP'), and policies SH Env1 and SH H3 of the South Huish Neighbourhood Plan ('SHNP'),
2. The provision of 4no. homogenous large and detached, 4-bedroomed dwellings is a form of development that would not contribute to meeting local market housing needs or redressing existing imbalances in housing stock. The affordable housing would be clearly distinguishable from the market housing. The development is therefore contrary to policies SPT2, DEV8, and DEV10 of the JLP.
3. The proposed development is sited within the AONB and designated Undeveloped/Heritage Coast. By virtue of the quantum, siting, scale, form, and appearance of the proposed development it would neither conserve, nor enhance the AONB and Undeveloped Coast, and would instead be injurious to their special qualities. The development does not represent high-quality design. The application is contrary to policies DEV10, DEV20, DEV23, DEV24, DEV25, and DEV28 of the JLP, and policies SH Env2, SH Env5, and SH HBE3 of the SHNP (and the NPPF).
4. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to policy DEV29 of the JLP (and the NPPF).

5. Insufficient information has been provided to satisfy the Local Planning Authority that the proposal is acceptable in terms of proposal is acceptable in terms of refuse collections and bus stop provision at the site. Adopting a precautionary stance, it has not been established that the access would be safe and suitable for all users, contrary to policy DEV29 of the JLP (and the NPPF).
6. The application is supported by insufficient ecological information, such that the Council cannot be sure that adverse impacts to protected/priority species and related habitat can be adequately avoided, mitigated, or compensated. It is appropriate in such circumstances to adopt a precautionary stance. The application is therefore contrary to policy DEV26 of the JLP and the NPPF (notably paras. 179 and 180, and footnote 61).
7. In the absence of a completed s106 agreement or undertaking to provide for contributions to mitigate the infrastructural impacts of the development, including the provision of affordable housing, and to ensure that the market dwellings to be provided could not be occupied as second/holiday homes, the application is contrary to policies DEV8 and DEV30 of the JLP, and policies SH H1 and SH H2 of the SHNP.

Key issues for consideration:

Principle/Justification

Housing Mix

Landscape (AONB and Undeveloped Coast) / Character and Appearance of the Area

Drainage

Ecology

Highways

Climate Change/Energy Efficiency

Archaeology

Planning Balance and Conclusion

Site Description:

The application site comprises approximately 0.83ha of greenfield land adjacent to the settlement of Hope Cove and accessed from the Hope By-Pass highway to the north. The site slopes down from north to south and is bound by mature hedgerow. Built development bounds the site to the north, east, and west, though the site has a clear and discernible relationship with the countryside and coastal setting thereabouts.

The site is beyond the built-up area of the settlement and is therefore in the countryside for planning purposes; Hope Cove itself has no formal status within the Council's settlement hierarchy and instead falls within the lowest tier of 'Smaller Villages, Hamlets, and the Countryside'. The site also falls within the plan area for the South Huish Neighbourhood Plan ("SHNP").

The site is within the AONB, and Undeveloped and Heritage Coast areas.

The Proposal:

Planning permission is sought for the erection of 10 dwellings and associated works, with 6 of the units proposed to be affordable.

Consultations:

- South Huish Parish Council – Objects:

[Summarised as follows due to length of response, which has been duly considered in full]

- *'As a result, the majority of our previous comments still stand, and the Parish Council have no alternative but to strongly object to the application.'*
- *Would like to see other locations for the development considered, assuming that there is an established need.*
- *Potential flooding that would be caused by run off into the leat.*
- *Coalescence between Galampton and Hope Cove is not acceptable.*
- *Traffic data is five years out of date – and was originally undertaken mid-November, a most inappropriate time given that we have approximately 80% second homes/holiday homes and the parish is inundated with visitors from April to October.*
- *The properties are three bedroom – clearly showing two bedrooms and a spare room or office, previous data showed smaller properties were needed. The Housing Needs survey is out of date and should be repeated to ensure that the data is accurate and the affordable element of the estate is not being built on hearsay.*
- *No details of a potential S106 agreement have been provided.*
- *Highly visible impact on the AONB*
- *Lack of road safety, the road is not wide enough or lit at night and there are insufficient splays to enter/exit the site.*

- Local Highway Authority – Objects/recommends refusal as follows:

- *The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to paragraph 110 and 111 of the National Planning Policy Framework and Policy DEV29 of the South West Devon Joint Local Plan.*
- *Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of refuse collections and bus stop provision at the site, contrary to paragraph 110 and 111 of the National Planning Policy Framework and Policy DEV29 of the South West Devon Joint Local Plan.*

- Affordable Housing – objects:

- *This application is not meeting the requirements of Policy TTV27 in the Joint Local Plan. It does not comply with point 2 which states: "It includes a mix of affordable and market housing products where necessary to be financially viable. This includes open market housing, providing it does not represent more than 40 per cent of the homes or 40 per cent of the land take excluding infrastructure and services."*

South Hams District Council commissioned a review of the applicant's viability in 2022 and our conclusion was this site does not need 4 detached open market dwellings in order to bring forward this application.

- Police DOCO – various design concerns noted.

- Lead Local Flood Authority – objects:

- *At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.*

- DCC Education – obligations required.

The contribution sought for primary education is £41,080 (based on the DfE extension rate of £16,432 per pupil). This will relate directly to providing education facilities for those living in the development.

We will however require a contribution towards primary and secondary school transport costs due the development being further than 1.5 miles from Malborough with South Huish Primary School and 2.25 miles from Kingsbridge Community College. The costs required are as follows:

*Primary pupils = £33,250
Secondary pupils = £4,645*

- Environmental Health – no objection subject to CEMP condition.
- DCC Archaeology – object on the basis of insufficient information/need for intrusive field investigation to inform decision.
- Waste – comment; condition if approved. Support LHA comments regarding domestic collection.
- Trees – no objection on arboricultural merit subject to submission of the noted information prior to any commencement on site including any demolition or earthworks.
- DCC Ecology – Further information required because ecological information is now long out of date.

Representations:

11.no letters of objection have been received, including a detailed objection from the South Hams Society. Those comments have been considered in full and are summarised below as follows:

- Housing allocations in the AONB were deleted/significantly modified in the examination of the JLP.
- Any development in Hope Cove can only come through via the Neighbourhood Plan process. The application is contrary to the NP both in principle and in relation to locally important views.
- Outside of the settlement boundary.
- Lead to coalescence between settlements.
- Harm to dark skies.
- Harm to AONB.
- Flood risk concerns.
- Pressure on local infrastructure.
- The landowner owns other land around the parish that may be better suited to the development.
- Irreversible loss of greenfield land and habitat.
- Unsafe access.
- Harm to ecology; loss of hedgerow.
- No housing need established.
- Little change from previous application.
- Traffic concerns.
- Not a sustainable location; poor connectivity.
- No need for executive style homes.
- Ribbon development
- Concern regarding surface water strategy.
- The open market land take far exceeds the affordable contrary to TTV27.
- Poor design

4.no letters of support have been received. Those comments have been considered in full and are summarised below as follows:

- Hope Cove needs affordable housing and young people are being driven away.
- General lack of affordability in the area.
- Loss of local jobs through people moving out.
- Would bring fresh life to village and support local services.

The agent has written in response to the various consultation and third party responses received. That submission has been duly considered.

Relevant Planning History:

On 25th March 2019 an Outline Application was submitted by the applicant (1011/19/OPA) for the proposed erection of 18 dwellings (6 x affordable dwellings / 4 x affordable retirement dwellings / 8 x open market dwellings). That application was withdrawn 19th July 2019.

A second application for 10 dwellings (6 affordable) was refused in 2022 for various reasons including the principle of development, ref. 1303/21.

This application has been determined afresh and on its own merits though having regard to that history.

ANALYSIS

Principle / Justification:

The Plymouth and South West Devon Joint Local Plan ('JLP') sets an overarching strategy for delivering sustainable development that complements the existing settlement pattern within the plan area. The high-level strategy for delivering sustainable development is expressed within policies SPT1 and SPT2, with other policies amplifying and giving effect to those requirements.

The adopted JLP establishes a hierarchy of settlements to which development will be directed, and those settlements are named as part of policy TTV1. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages Policy Area. The policy describes how the settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside will be used to inform whether a development proposal can be considered sustainable or not.

Paragraph 5.5 of the JLP explains that policy TTV26 - Development in the Countryside will be applied 'outside built up areas'. The application site is beyond the discernible settlement edge (and the settlement boundary as defined under the neighbourhood plan) and, in any event, is relevant to a settlement that is not defined in the first three tiers of the settlement hierarchy.

Consequently, for the purposes of policy TTV1 of the JLP, the proposal site is considered to be located within the fourth tier. In such circumstances policy TTV1 explains that: *'development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and 2) including as provided for in Policies TTV26 and TTV27.'*

The aim of policy TTV26, as articulated in the first line, is to protect the role and character of the countryside. The policy is divided into two different sets of policy requirement; the first part applies to development proposals considered to be in isolated locations. Applying the test established through case law (most recently, *Braintree*) the site is not isolated as it is contiguous with the settlement of Hope Cove and is close to Galampton.

The second part of the policy is set out as follows, applying to all development in the Countryside.

"2. Development proposals should, where appropriate:

- i. Protect and improve public rights of way and bridleways.*
- ii. Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.*
- iii. Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.*
- iv. Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.*

- v. Avoid the use of Best and Most Versatile Agricultural Land.*
- vi. Help enhance the immediate setting of the site and include a management plan and exit strategy that demonstrates how long-term degradation of the landscape and natural environment will be avoided”.*

Not every criterion within this part of the policy would be engaged or relevant to every proposal. However, in this case the proposal does not accord with any in particular either; and, crucially, the application does not respond to a proven occupational need that requires development within the countryside. The applicant proposes new development beyond existing built form and the discernible self-contained village envelope. It follows that the application scheme does not accord with policy TTV26 and cannot rely upon it.

However, in accordance with policy TTV1 the applicant makes a case under policy TTV27. This policy relates to “exception sites”; that is, sites which would not otherwise ordinarily be released for residential development. In order to comply with the policy, it must be demonstrated that:

- 1. It meets a proven need for affordable housing for local people.*
- 2. It includes a mix of affordable and market housing products where necessary to be financially viable. This includes open market housing, providing it does not represent more than 40% of the homes or 40% of the land take excluding infrastructure and services.*
- 3. Management of the scheme will ensure that the dwellings continue to meet the identified need in perpetuity.*
- 4. The proposal meets the requirement of all other relevant policies of the Plan.*

Those criteria are considered as follows.

1. The development is proposed to deliver 6 affordable homes. It is understood that the most recent recorded housing needs survey revealed a need for 7, new affordable homes. Taking into account the representations of the applicant, it is quite foreseeable that there may be further, concealed need within the locality such that there may be a greater need than that currently identified. In any event, the application would make a positive contribution toward meeting the need that has been identified and therefore the application accords with the policy in this respect.
2. The application proposes a split of 60% affordable homes of a mix required by the affordable housing team, and 40% open market housing. The applicant has submitted a viability assessment as part of the application in order to demonstrate, ostensibly, that only the minimum amount of market housing necessary to make the development viable has been provided. The information provided is similar to that submitted in support of the previous application, which had been subject to external review.

The external consultant previously advised in summary that:

“My appraisal therefore shows a surplus of approximately £320,000 (residualised price) which may be provided to increase the number of affordable units or decrease the number of open market units.

I have therefore run a second Argos appraisal which shows that the fourth open market unit may be divided into two x 2Bed flats for affordable rent in place of the market unit. This then provides three market units, two shared ownership houses, four affordable rental houses and two affordable flats, totalling 11 units.”

There is nothing in the present application that would persuade officers to demur from the previous view that the application could support 7no. affordable homes or, put another way, the 6no. affordable homes proposed are capable of being viably delivered without the delivery of as many as 4no. market dwellings.

The application, as it stands, therefore does not accord with this criterion of the policy.

Furthermore, as public representations have highlighted, the overall land take of the market housing, excluding infrastructure and services, exceeds 40% of the remaining area; the split between the market and affordable land take is roughly equal (and that is based on a prudent inclusion of the green buffer as falling within the land take of affordable units i.e., that the market housing land is possibly greater). The application therefore also fails to comply with the policy for that reason.

3. This criterion would be capable of being satisfied albeit in the absence of a s106 agreement/undertaking on appropriate terms, then this element of policy is not satisfied.
4. For the reasons set out in subsequent sections of this report, the proposal does not meet the requirements of all other relevant policies of the plan. This criterion is therefore not satisfied.

Overall, therefore, the application does not accord with policy TTV27.

Policy SH Env 1 of the SHNP also carefully controls new development beyond the defined settlement boundary. Development proposals outside the settlement boundaries will be treated as development in the open countryside. To protect the character and appearance of Hope Cove, Galampton and South Huish, development which erodes the visual separation of the settlements will not be permitted. As will be set out later in this report, and accounting for Locally Important View ‘V2’, the application would by virtue of its quantum, scale/form, and layout, erode that visual separation and lead to unacceptable coalescence between settlements. This policy is breached.

Consistent with policies SPT1 and SPT2, Strategic Objective SO10 provides context and gives effect to policy TTV26 and clarifies what the plan seeks to achieve in Countryside locations. Of particular relevance to this application, the strategic objective states:

“SO10 Maintaining a naturally beautiful and thriving countryside

To protect, conserve and enhance the natural beauty of South West Devon's countryside, and to avoid the creation of new homes development in unsustainable or inappropriate locations.

Delivering new homes only in areas where there is an identified local need.

Protecting and managing the landscape.

Contributing to carbon reduction measures by reducing the need to travel...”

As will be explored below whilst the development would serve to address identified affordable housing needs within the parish, the market housing mix would not do so, thereby leading to some tension with SO10.1. In light of the characteristics of the site, within the AONB and Undeveloped Coast, the landscape would not be protected, at odds with SO10.2. Reliance upon the private vehicle to access local services and amenities results in a conflict with SO10.3 and policies SPT1 and SPT2. The lack of reasonable access to the centre of the village, with the site poorly served by sustainable transport opportunities, also leads to conflict with policy SPT2.

The application development therefore fails to accord with policies SPT1, SPT2, TTV1, TTV26, TTV27, and SH Env1.

The application is unacceptable in principle.

Housing Mix

Policy DEV8 of the JLP states that 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. It is explained that 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.

Similarly, Policy SPT2 which concerns sustainable rural communities, specifies that development should support the creation of communities which have a good balance of housing types and tenures to support a range of household sizes, ages and incomes to meet identified housing needs.

The JLP SPD explains the rationale behind policy DEV8 as follows:

“4.14 In South Hams and West Devon there is an imbalance between existing housing stock and the projected size and needs of newly forming households. There is a higher proportion of 4 or more bed homes than the rest of Devon and Cornwall and both are also in the top three in Devon and Cornwall for under-occupancy with around 35 per cent of homes having at least two spare bedrooms. The planning system cannot prevent people from under-occupying their homes, or buying a home with a spare room, but it can ensure that the mix of new homes is better suited to the needs of smaller households. A step-change in the delivery of smaller homes will enable greater churn within the existing housing stock as it will facilitate down-sizing for older people, as well as providing a first-step towards independent living for young people and young families.

4.15 Housing stock that comprises a relative over-provision of large houses makes it increasingly difficult to rebalance the demographic profile and increase home ownership because the current housing stock is inherently unaffordable. Large dwellings, particularly those in coastal settlements, are not suited to smaller households or households that are earning close or similar to the national wage.”

Whilst the mix of affordable housing to be provided is acceptable to the Council's affordable housing team, concern remains regarding the 4no. market dwellings. Those dwellings would be large, 4-bedroom detached units with garages, of identical form and appearance.

Accounting for local ONS data there is imbalance in existing housing stock with significantly higher proportion of detached dwellings and dwellings of 3 bedrooms or more. Whilst there is a much higher proportion of 3-bedroomed dwellings than any other, the lack of any mix or variety within the proposed development is disappointing and would not serve to redress that identified local imbalance.

Accounting for the SHMNA and in terms of owner-occupied accommodation, there is a far greater need for properties smaller than 4 bedrooms; the relevant table 4.4 showing that some 34.7% of new owner-occupied dwellings should be three-bedroom homes, with 31.0% being two bedroom units, 23.0% should have four or more bedrooms and 11.2% one bedroom accommodation, over the assessment period.

Lastly, the SHNP evidence base includes a local housing needs survey representing recent evidence from within the NP plan area. It effectively serves to corroborate the other information sited above and this is reinforced at para. 4.5 of the SHNP where it is stated that there is a need for: *“more reasonably priced 2 and 3-bedroom open market housing of mixed type and tenure and/or self-build plots is needed.”*

The proposal cannot be said to redress existing imbalances in housing stock (rather, the imbalance that does exist would be exacerbated), and it is not proposed to meet any particular market housing need; nor would the proposed dwellings suit younger people or smaller households. In fact, no attempt has been made to provide for any mix of housing within the open market aspect of the development at all. Noting the findings of the viability consultant as pertaining to the previous scheme, it is likely that the provision of some smaller market units within the scheme may have been possible.

The proposed development would fail to accord with policy DEV8 and this weighs against the application albeit tempered to a degree by the provision of affordable housing proposed (but as below, the scheme would not be tenure blind, contrary to DEV10).

Landscape; Character and Appearance of the Area (and Design):

The policies of the development plan recognise the intrinsic character and beauty of the countryside and through the application of policies DEV20, DEV23, DEV24, DEV25, and SHNP policy SH Env2, generally seek to secure development that is compatible with it.

In accordance with policy DEV24, development that would have a detrimental effect on the undeveloped and unspoilt character, appearance or tranquillity of the Undeveloped Coast will not be permitted except under exceptional circumstances. Development will only be permitted where among other matters it protects, maintains and enhances the unique landscape and seascape character and special qualities of the area. It must also be demonstrated that the proposed development either requires a coastal location or reasonably cannot be located outside of the designated area.

Policy DEV25 also states that the highest degree of protection will be given to the protected AONB landscapes, with *great weight* being afforded to conserving landscape and scenic beauty in the protected landscapes. Development proposals within the AONB are therefore required to conserve and enhance the natural beauty of the protected landscape with particular reference to its special qualities and distinctive characteristics or valued attributes.

This is consistent with s.85 of the *Countryside and Rights of Way Act 2000* which requires that:

“...in exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”.

That legal duty is another material consideration (as opposed to forming part of the development plan) but it has the force of statute and must be followed.

Policies of the South Devon AONB Management Plan are also material. The Management Plan seeks to ensure that the AONB is conserved, managed and enhanced to support and benefit present and future generations. It goes on to identify ten special qualities that summarise the unique natural beauty for which the South Devon AONB is designated as a nationally important protected landscape, alongside various policies to meet the stated purpose of the Management Plan.

Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment, where the intrinsic character and beauty of the countryside should be recognised alongside maintaining the character of the undeveloped coast (while improving access to it, where appropriate). Paragraph 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to those issues.

Whilst having regard to the definition provided in local and national policy the development is not considered to be ‘major’ development in the AONB, this does not make the identified adverse impacts any less serious – there are considered to be detrimental effects on the landscape and environment of the AONB that should be given great weight in the planning balance.

The application is supported by a Landscape and Visual Impact Assessment (LVIA). However, it is considered that the submitted document does not constitute an LVIA as recognised in the best practice guidance of Guidelines for Landscape and Visual Assessment Edition 3 (Landscape Institute/Institute of Environmental Management and Assessment). No attempt is made in the submitted document to assess any effects on the landscape or landscape character of either the site or the wider area. Only visual effects are considered. The submitted LVIA document also fails to reference the AONB management plan, or the relevant planning policies in respect of landscape or visual matters. Its conclusions are not considered to be reliable.

The site comprises a single underdeveloped pastoral field typical of the local landscape. The proposals would have an adverse effect on both the character of the site and the wider landscape. The proposed development would result in a permanent change to the land use of the site, removing its agricultural use and introducing residential and domestic uses. There would be a permanent change to the site’s sloping topography, as indicated in the submitted cross-sections, to facilitate the construction of the proposed properties and associated infrastructure. In addition, there would be a loss of existing hedgerow to enable access onto the site from the public highway.

The site in its present state forms part of the landscape setting for Hope Cove and contributes to both the physical and visual separation between the settlements of Hope Cove

to the west and Galmpton to the east. The proposed development, despite the presence of the single residential property of Double Gates to the north-east, would extend the settlement of Hope Cove further east and encroach into the countryside. The means by which the form and scale of development has been determined is not clear in the submitted documentation. The LVIA fails to explain how the proposals might be considered as conserving or enhancing the local landscape of the AONB.

The submitted LVIA does consider several representative views. However, it is considered that the level of effect of the proposed development is underplayed. The proposals would be seen in the important view V2 as identified in the South Huish Neighbourhood Plan. There would be adverse effects from public vantage points on the high ground to the south of the site and it is considered that some visual coalescence with Galmpton would occur [also contrary to policy SH Env1 as set out earlier in this report].

It is acknowledged that the proposals are accompanied by landscape proposals, and whilst the proposed native planting would provide biodiversity benefits and further visual screening, it does not sufficiently mitigate for the identified harm to the recognised character of the landscape that development would cause.

Broader design and layout concerns are also relevant, including the homogenous design approach of identical housing types which lead to the affordable housing being clearly distinguishable from the market dwellings (contrary to policy DEV10(3)). The proposed OS is also of limited utility and would be poorly surveilled.

The application fails to accord with policies DEV10, DEV20, DEV23, DEV25 of the JLP, and policy SH Env2 of the SHNP more generally in light of the above assessment, where careful consideration has been paid to the extent, scale and appearance of development and its likely landscape character and visual impacts.

For similar reasons the application would conflict with policy DEV24. The development would pose a deleterious effect upon the undeveloped and unspoilt character, appearance and tranquillity of the Undeveloped Coast.

The application is therefore unacceptable in respect of its impacts upon visual amenity and the landscape character of the area including the special qualities of the AONB and Undeveloped Coast, having regard to local and national policy.

This matter weighs heavily against the application.

Highways

Detailed comments have been provided by the LHA in objection to the application and officers endorse those views. It is important to set their commentary out in full (and which overlap with the concerns raised with regard to the issue of principle and compliance with policy SPT2):

“As per the preliminary advice given by the Highway Authority, concerns are again raised in respect of the suitability of the location of this proposal in respect of safe and suitable access for all users. The site abuts the Classified Road (C8), where it is considered the road characteristics are not commensurate with the national guidelines in respect of shared space roads. These characteristics are set out clearly on Pg. 29 under subsection 2.9.8 in Manual for Streets 2. The main area of concern is the evidenced speed of traffic on the C8 Road is around 30mph 85th percentile speed.

Manual for Streets 2 explains that problems have been encountered on shared space schemes where 85th percentile speeds exceed 20mph. There is already evidence practically in place on the C8 Road near this location that pedestrians don't feel comfortable walking in the road, as there are pedestrian warning signs already present covering the area of the C8 road adjacent to the site and also for approximately 200m west of the site frontage. The roads are also unlit and do not have a speed limit. The existing characteristics of the C8 Road also do not offer safe facilities for the blind or partially sighted or more vulnerable users such as parents with prams meaning that the principles of the NPPF are not being met specifically in relation to ensuring development provides safe and suitable access for all types of user.

Restricting the speeds of motorists would be difficult to achieve physically in this location as the road itself functions as a district distributor road expected to carry all types of vehicles including buses and HGVs. With no existing speeding contravention issue present, there would be no justification to restrict the width of the C8 Road. Also vertical features such as speed cushions or humps would not be supported due to the need to retain the bus services for the village. Furthermore the emergency services response times to the village would also likely to be hindered and this may attract objection.

The transport consultant makes the point that most drivers will be aware of pedestrians in the road. The Highway Authority would disagree and has concerns that for large parts of the year tourists visit frequently to Hope Cove and many of these types of driver will not be aware of the local characteristics of the road and will generally drive to the conditions meaning they will be driving too fast for shared space conditions.

It can be seen from the Transport Statement submitted with the application the applicant is assuming site users will be able to safely walk on the the C8 Road in order to gain access to the amenities within the village. These amenities include the beaches, coast paths, convenience store, pub, hotel and restaurants to name a few. The C8 Road is not lit and has no safe verges or footways to rely upon and is therefore considered unsuitable as a shared space road. Whilst it is acknowledged at certain times of the year vehicle numbers are indeed low on the main road, it is generally known that reduced traffic on roads tends to lead to increased driver speeds. Furthermore, for large proportions of the year, this road is well used by tourists who are not familiar with the conditions. This is the time of year when weather conditions would likely attract a temptation to walk to/from the site.

Whilst there is an alternative route via Cliff Road, Grand View Road then South Huish public footpath 11 there are some notable issues with this route –

- It is 150m further to walk so would unlikely be used.*
- It is very steep in parts at 1:6 approx and unsuitable for certain highway users such as wheel chair users or disability scooters.*
- South Huish Footpath 11 is very steep and un-metalled in parts where it is wide enough for prams etc.*
- It is not suitable for wheel chair users or the blind and partially sighted.*

Concerns are raised that should this site be approved there are other fields to the east of this site that will also lead out onto the C8 Road where no safe pedestrian facilities are also possible to provide. This would in the view of the Highway Authority set an

undesirable precedent for development, which inevitably would compound the above issues.

Internal Roads - Comments if the proposals are to be considered in principle acceptable by the Planning Authority.

As part of this latest application it can be seen a junction arrangement is included in the appendix of the Transport Statement. This shows visibility splays and a private bellmouth layout, which accords with Manual for Streets principles. Should the Planning Authority be minded to approve the application, despite the concerns raised above in relation to pedestrian safety, the Highway Authority is requesting the applicant facilitates a safe bus stop at the site so that the bus, which currently serves the village can provide an alternative to site occupants to using their car or walking in the road, which as previously set out above is not ideal. In order to create a safe bus stop, the main road will need to be widened to allow a safe and suitable bus to stop to be formed whilst maintaining free flowing traffic for all types of traffic in the opposing direction. The bus should not also be proposed to stop in the visibility splay for the proposed side road junction or this could cause a safety issue for existing road users. Should the Planning Authority be minded to approve the application it is recommended the main road is widened to 6.5m width from 5.1m (existing) so that when a bus is stopped, the main road does not become obstructed for HGVs or cars travelling in the opposing direction. A 2m footway with a 125mm height kerb will also be necessary leading to the bus stop from the site and it is suggested this is provided to the far north western extremities of the site from the bellmouth. The main road will need to be re-surfaced completely for the entire length of widening of the main road so a joint in the road is not created and subsequent maintenance issue. A centre line will also need to be added along with additional gullies to connect the additional surface water runoff into the existing surface water network. Therefore it is recommended a 1:500 scale plan should be submitted showing these improvements. It should also be noted a request to enhance the bus service is made below.

Due to the site gradients permeable pavements on site are deemed unacceptable. However a revised FRA has been submitted stipulating that on site attenuation shall be utilised to discharge at a controlled flow rate into the watercourse south of the site. The Flood Risk Team at Devon County Council should be consulted so that some appropriately worded pre-commencement conditions can be agreed.

As the road will remain private, it is normally the case that the refuse department will not enter the private estate roads. Again with this application no proposals are put forward demonstrating how safe refuse collections will be achieved for the properties as a whole and a planning condition approach is suggested by the applicant. Before a condition can be considered, confirmation in writing that this will be possible should be obtained from South Hams Refuse Department. If they are unwilling to do so, it is deemed that an assumption for kerb side collections is an unsuitable method for collections as the parked lorry on the main road is likely to cause inconvenience for existing road users. However should the Planning Authority disagree with this concern then a refuse collection point should be sited within 20m of the public highway and shown on the site layout plan.

A concern is raised that some of the submitted plans with the application appear to show the bellmouth protruding out into the existing main road and therefore reducing the width of the main road suddenly. This is not acceptable and should the Planning

Authority be minded to approve the application these plans should be adjusted correctly to remove this scenario.

It can be seen the driveways are long enough to ensure a 6m reversing area can be accommodated behind a large parked car. This previous concern is now removed.

The Highway Authority would question the need for the bulb shaped extension to Road 1. It does not seem to provide any function.

The previous concern that the garages are too small, has been resolved by the conversion of the garages to car ports.

It is for the above reasons the Highway Authority cannot support the principle of development in this location and objects..."

The application therefore conflicts with policy DEV29 of the JLP and the NPPF including policy paragraphs 110 and 111.

Drainage:

For all intent and purpose, the development would be sited outside of areas of increased flood risk and appears to have been amended to remove rear gardens from Flood Zone 3 and so no material policy conflicts arise in that regard.

The proposal provides for an underground attenuation tank to reduce the runoff to greenfield rates prior to discharge into the local watercourse. The site is too steep for infiltration techniques thereby an attenuated strategy was produced.

The LLFA previously accepted the applicant's strategy but now objects to the scheme. On balance, officers consider it to be reasonably foreseeable that a suitable strategy can be found and secured in the lifetime of any permission granted, if subject to a Grampian condition.

Whilst foul water detail is provided, and noting the concerns raised by the Parish Council in respect of local capacity to accommodate the follows arising from the development, this is a matter which could ultimately be addressed through Grampian condition because it is reasonable to assume that this could be resolved (or an alternative provided e.g., package treatment) within the lifetime of the permission.

The application is capable of meeting the requirements of policy DEV35.

Ecology:

Policy DEV26 requires development to support the protection, conservation, enhancement and restoration of biodiversity and geodiversity across the Plan Area. Among other matters, harmful impacts on protected species must be avoided wherever possible, subject to the legal tests afforded to them where applicable, and unless the need for, or benefits of the development clearly outweigh the loss.

The NPPF echoes those objectives. Paragraph 174 states that planning decisions should contribute to and enhance the natural environment by minimising impacts on, and providing net gains for, biodiversity. Paragraph 180 goes on to state that planning permission should be refused for developments that pose significant harm to biodiversity (in the absence of avoidance, mitigation, or, as a last resort, compensatory measures).

ODPM Circular 06/2005, which is referenced in the NPPF at footnote 61, states at paragraph 99:

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below.”

The application is accompanied by ecological assessments informed by site survey. At the time the previous application was submitted that information would have been in date although becoming progressively dated as the application proceeded to determination. Those surveys have not been updated for this resubmitted application and they are now significantly aged and out of date (having been undertaken in August 2020, so approaching three years in age).

As the DCC Ecologist notes:

“The site survey was undertaken in August 2020 – this means the results are now approx. 2.5 years in age. CIEEM guidelines on the ‘Lifespan of Ecological Reports and Surveys (April 2019)’ states that data which is between 18 months and 3 years in age will need a professional ecologist to undertake a site visit and to update desk study information in order to review to validity of the report. Some or all of the other ecological surveys may need to be updated.”

The out-of-datedness/need for surveys to be updated may have consequential effects upon considerations relating to nesting birds, reptiles, badgers, and Cirl bunting. As per the national planning policy and guidance referred to above, it is critical that the right information is available in order to take an informed decision. The application is therefore deficient in this respect.

Residual concern remains regarding the lack of detail pertaining to in-built bat boxes (etc.) and omission from the submitted elevational drawings. On balance and bearing in mind the application is being refused for other reasons, this is a matter which could ultimately be secured by condition (Grampian, if considered necessary).

Overall, the application is therefore considered to conflict with policy DEV26 and the NPPF, and in light of the legal duties imposed upon a decision taker it is not possible at this time to accept the proposed development in so far as ecological matters are concerned.

Such matters have the potential for positive resolution subject to further information and justification. However, in the absence of such at this present time, this forms an additional reason for refusal that may be capable, at least conceptually, of falling away should there be an appeal or subsequent application.

Impacts on Residential Amenity:

It is always necessary for developments to take into account the amenities of neighbours, third parties and impact on the environment. In this case, the proposal complies with the principles of good neighbourliness and the protection of existing residential amenities. By virtue of the siting, scale, form and detailed design of the development, coupled with the means of separation between properties involved, the proposal would not lead to any materially harmful impact on residential amenity by way of loss of light, outlook, or privacy.

In relation to the development itself there would be adequate private amenity space for sitting out and the drying of clothes.

It would therefore accord with JLP Policies DEV1 and DEV2 and the requirements of the NPPF.

Infrastructure:

JLP policy DEV30 (Meeting the community infrastructure need of new homes) requires that the development of new homes should contribute to the delivery of sustainable communities with an appropriate range of community infrastructure, such as schools, primary health care infrastructure, sports / recreation and community facilities / village halls.

Contributions are required in this case to mitigate impacts relating to education provision and transport. Such matters are capable of positive resolution with the appropriate mechanism for securing obligations being a s106 legal agreement or undertaking. However, in the absence of such at this present time, this forms an additional reason for refusal that can fall away should there be an appeal or subsequent application.

Climate Change and Carbon Reduction:

New development is expected to meet sustainability aims in relation to policy DEV32 and waste management through policy DEV31. This follows the requirements of the NPPF which stresses the importance of mitigating and adapting to climate change and transitioning to a low carbon economy.

Following the previous refusal, the applicant has provided a dedicated energy statement prepared by a suitably competent professional. The statement deals with the relevant policy requirements and includes measures to ensure that carbon emissions are adequately reduced.

The application accords with policy DEV32 and the previous RfR can fall away. A site waste management plan can be secured by condition in order to satisfy policy DEV31.

Archaeology

DCC Archaeology object on the basis of insufficient information/need for intrusive field investigation to inform decision. This is a matter previously found to be acceptable to the Council subject to planning condition. On balance, and notwithstanding the recent objection, it is felt to be unreasonable to include this issue as a reason for refusal. If permission were to be granted a Grampian planning condition would be necessary and this is considered sufficient to ensure that artefacts of significance are adequately investigated and recorded.

Planning Balance and Conclusion:

The recent case of *Corbett*¹ has re-emphasised that a key part of the s38(6) statutory duty is to determine whether the development accords with the development plan when viewed as a whole. It has long been recognised by the courts that it is not unusual for development plan policies to pull in different directions and that the decision taker must therefore make a judgement as to whether a proposal is in accordance with the plan as a whole, bearing in mind the relative importance of the policies which are complied with or infringed and the extent of the compliance or breach.

There is a statutory presumption in favour of the development plan. The NPPF, an important material consideration, reiterates this fundamental point.

On account of the planning policy conflict identified, the application development fails to accord with the development plan as a whole. The starting point for determination of the application must be to withhold a grant of permission.

Other material considerations do not point to a different conclusion but reinforce the direction of the development plan that the application should be refused. When assessed against the policies of the NPPF taken as a whole the application performs no better where the development would be outwith the strategy in an up-to-date plan; poses unacceptable highway safety risk; and would be harmful to a nationally protected landscape. Ecological information is also lacking.

The Council can demonstrate that it has a five-year housing land supply and continues to pass the Housing Delivery Test; the development plan is up to date. The consequence of such being that:

- i. The most important development plan policies for determining the application cannot be deemed as out of date by virtue of NPPF footnote 8
- ii. The development plan is meeting the Government's housing land supply requirements without the proposed scheme; and, accordingly
- iii. Although still a material benefit, the provision of market housing proposed by the applicant cannot be as weighty a consideration as it would be in the event that such a supply or HDT result could not be demonstrated.

Furthermore, the other public benefits of the development are of moderate weight. Whilst the provision of affordable housing to go toward an identified local need is a significant benefit, there is no inherent presumption that the site in question should be developed to meet that need, and without sufficient evidence regarding the viability of the development to demonstrate that the market housing to be provided is the minimum necessary to deliver the local needs affordable housing in accordance with policy TTV27, it is not clear that market aspect of the development is justified either (and the land take of that housing is likely to exceed the policy threshold). And, for the reasons set out, the market housing to be provided would not be appropriate having regard to local circumstances and would be clearly distinguishable from the affordable housing. This ultimately tempers the benefits of the development, also accounting for the relatively modest economic benefits that would flow from construction and occupation.

¹ *R (Corbett) v Cornwall Council* [2020] EWCA Civ 508.

The proposed development would be contrary to the development plan and national planning policy and there are no material considerations that justify a departure from those policies; the harm that has been identified significantly and demonstrably outweighs the benefits.

There are no other considerations that would indicate a planning balance being struck any other way than to refuse planning permission.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy:

Relevant policy framework

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

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

On 13th January 2021 MHCLG published the HDT 2020 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 144% and the consequences were "None". On 14th January 2022 DLUHC published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% and the consequences are "None". Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level.

When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 5.8 years at end March 2021 (the 2021 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2021 (published 12th November 2021).

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

The most important 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.

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV26 Development in the countryside

TTV27 Meeting local housing needs in rural areas

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
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
DEV24 Undeveloped Coast and Heritage Coast
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing flood risk and water quality impacts

South Huish Neighbourhood Plan:

Following a successful referendum, the South Huish Neighbourhood Plan was adopted at Annual Council on 20 May 2021. It now forms part of the Development Plan for South Hams District and should be used in deciding planning applications within the South Huish Neighbourhood Area.

Relevant policies:

SH Env 1 Settlement boundaries and avoidance of coalescence
SH Env 2 Impact on the South Devon AONB
SH Env 5 Locally Important Views
SH Env 7 Drainage impact
SH Env 8 Dark skies and the avoidance of light pollution
SH H1 Affordable Housing
SH H2 Principal residence
SH H3 Exceptions sites outside of the settlement boundary
SH HBE 3 Design quality within the Parish

Other Material Considerations:

Additionally, the following planning documents are also material considerations in the determination of the application:

- The Plymouth and South West Devon Supplementary Planning Document
- Developer Contributions Evidence Base
- South Devon AONB Management Plan

Other material considerations include the policies of the NPPF and guidance in the PPG.

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.

Future Proposals

This application follows a previous proposal, refused in 2022 for similar reasons. It should be noted that no objection is raised in relation to housing in the parish *per se*. This report makes

clear that the application, principally, does not meet the relevant criteria to accord with policy TTV27 – this partly relates to the mix and sizing of dwellings proposed and other policy conflicts that have been identified (where TTV27 requires compliance with other policies of the plan in their totality). It is recommended that the applicant works with the Parish Council to identify other potential sites for development that may be available in the locality.

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

Name and signature: Steven Stroud

Date: 25th May 2023

Ward Councillors –

Mark Long – Agree with recommendation.

Samantha Dennis – No comments received.