

## PLANNING APPLICATION REPORT

**Case Officer:** Adam Williams

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

**Application No:** 3010/18/FUL

**Agent/Applicant:**

Mr Michael O Connor - Squirrel Design  
Solutions Limited  
Level One  
2 The Old Fire Station  
Manor Road  
Chagford  
TQ13 8AS

**Applicant:**

Mrs Christine Cottle  
Shyrehall  
Grange Road  
Buckfast  
TQ11 0EH

**Site Address:** Land adjacent to Fairhaven, Sandhills Road, Salcombe, TQ8 8JP

**Development:** READVERTISEMENT (Amended Site Address) Erection of a single dwelling

**Recommendation: Refusal**

**Reasons for refusal**

1. The proposed dwelling would be harmful to the character of the area and appearance of the landscape which is designated an Area of Outstanding Natural Beauty. The proposed built development as a result of its form, scale and footprint would increase the density of development. This would harmfully alter the undeveloped nature of the mature gardens and woodland and detract from the recognised low density character of the area contrary to saved Policy KP11 of the South Hams Local Plan and CS9 of the Core Strategy and DP2 and DP5 of the Development Policies DPD and Emerging Plymouth and South West Devon Joint Local Plan Policies DEV24, DEV7, DEV30 and the National Planning Policy Framework, specifically paragraphs 170, 172 and 175
2. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access visibility splays and structural details contrary to paragraph 32 of the National Planning Policy Framework.

**Key issues for consideration:**

Area character  
Woodland/ trees  
Landscape/ visual impact  
Housing need  
Sustainability  
Land contamination  
Planning history  
Neighbour amenity  
Access and parking

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**Site Description:**

The application site is part of the gardens of Fairhaven, a substantial Edwardian detached dwelling on the south west facing leafy slopes above North Sands, within the development boundaries of Salcombe. The main house and its western wing are now converted into separate apartments that all share the dramatic views down to North Sands and out to Salcombe Bar.

The surrounding area is characterised by low density, large-size dwellings in a mixture of individual styles on the southern suburbs of the town of Salcombe and within an Area of Outstanding Natural Beauty. These houses are so large that many are converted to flats and all properties in this area have a prestigious location. Although within the development boundary of the town, the area is also protected by character and woodland planning policies that maintain the leafy and spacious feel of the valley side. Nearly all the houses in this area are accessed from Sandhills Road which descends from the town above via a series of hairpin bends until it reaches the beachside at the base of the hill. The entire area is populated by a range of trees that benefit from the clean sea air in a relatively sheltered aspect at the mouth of the Salcombe estuary.

A mixture of the trees, the boundary treatments, the low density layout and the steep topography gives a high level of local privacy between houses. The application site itself is approximately 60 metres deep and 30 metres wide on land that slopes steeply down towards the south west. It is unkempt garden land with the large part of the plot (the house footprint) effectively surrounded by mature and semi-mature trees and bushes. The plot is also the subject of Tree Preservation Order 681 – W1 -Woodland which protects a significant proportion of the overall plot and adjacent gardens; and TPO 86 – A1 – Area which includes a broader area of the valley slopes. Access is gained by sharing the winding driveway up from Sandhills Road that also serves the wider Fairhaven apartments.

### **The Proposal:**

The proposed development consists of a number of cascading built elements, embracing the sloping site with partially subterranean and cantilevered rooms and terraces, linked by covered walkways. Rooves are flat and finished with green or engineered surfaces, some partially covered with solar arrays.

The 2013 application was refused due to;

*The proposed dwelling would be harmful to the character of the area and appearance of the landscape which is designated an Area of Outstanding Natural Beauty. The proposed built development would increase the density of development harmfully altering the mature gardens and low density that characterise the area contrary to saved Policy KP11 of the South Hams Local Plan and CS9 of the Core Strategy and DP2 of the Development Policies DPD and no other material considerations indicate otherwise.*

On appeal this decision was upheld and the inspector concluded that;

*'Putting these aspects together the appearance of the locality would diminish and the scheme would be of a different character to the presently prevailing situation. There would be over-development which would fail to reflect the local character. As the Appellant points out, the wider area is a diverse one in terms of type and character of homes; however to my mind this immediate swathe of Sandhills Road is an identifiable attractive low density entity which justifies assessment and protection in its own right. In summary therefore, the scheme before me would represent incongruous over-development and would fail to sufficiently reflect the character and distinctive qualities of this locality.*

### **Consultations:**

- **County Highways Authority** – Standing Advice, following review of the standing advice it states that private drives should serve no more than 3 dwellings, after raising a potential issue with DCC highway officers the following response was provided

A dwelling would according to TRICS 2012 generate approximately 6 two way vehicle movements per day on average meaning the proposals would likely contribute to approximately a 50 % increase of traffic using the access.

It is noted the access serving the proposed site affords the following visibility 17m 'y' distance east (nearside of the road) x 2.4m 'x' distance x 5m 'y' distance west nearside of the road x 1.05m height. It is estimated the 85th percentile speed of traffic using Sandhills Road is between 20 and 25mph therefore in Manual for Streets 2007 it is recommended a splay of 33m 'y' distance east (nearside of the road) x 2.4m 'x' distance x 25m 'y' distance west nearside of the road x 1.05m height is provided. This would involve works to the frontage wall in order to achieve safe access.

Currently it is considered the access is unsuitable for any formal permitted increase in use as a result of the substandard visibility splay currently available.

It may be possible for the applicant to employ a highway engineer to examine improvements to the access, however from a planning perspective the wall would need to be either set back or staggered to adjust the height within the visibility envelope so that the above recommended splay can be achieved.

Note - As the wall is over 1.5m and next to the highway Highway Structural Technical Approval is required. A qualified structural engineer will need to be appointed to produce a design and calculations of the wall.

Currently no details are submitted with the application and therefore the Highway Authority is recommending a lack of information.

**Recommendation:**

**THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS**

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access visibility splays and structural details contrary to paragraph 32 of the National Planning Policy Framework.

- **Drainage** – No objection subject to condition
- **Town/Parish Council** – objection -This would cause a severe impact on the TPO/Woodland Area and yet there was no reference to this Order from any of the experts contributing to this application and it seemed to have been disregarded. Having consideration to the impact of such adverse development and the Woodland Order covering the area the development was not felt to be sustainable in consideration of Policies 6, 7, 8 and 9. Notwithstanding the Woodland Order this proposal would have a detrimental effect for any area. Town Council questioned due consideration of any works that had already been carried out following the 2003 designation which may be contrary to the Regulation. Review of this could not be validated without walking the area, to ensure such had not been touched, and was thus a fundamental consideration for this development. This was felt to be overdevelopment of the site with a major impact on the streetscene and AONB. With regard to the emerging Salcombe Neighbourhood Plan this proposal was in contravention of SALC B1 design, quality and safeguarding assets as it was not designed to compliment the existing palette together with design and infill development ENV 7 – referring to sub division of any existing plot and that any new building should not be greater than what was removed.
- **SHDC Tree Officer** – 3 consultation responses were produced following clarification and revisions sent by the agent to the Tree Officer, the final response was as follows

**Shade Path analysis**

The shade paths are now plotted and it is agreed that no significant loss of direct sunlight will ensue given to the dwellings internal rooms. However significant proportion of direct sunlight will be reduced to outside spaces on the Western aspect and significant indirect daylight will result given the massing of the mature of mixed deciduous and evergreen trees.

## **Incursion into RPAS**

Concerns removed following study of plan

## **Western portion of building under canopy of trees, including cantilevered section**

Concerns eased re impact of dwelling however outside pathways, service runs etc do not appear to be included in the TPP, just the massing of the building leading to potential ingress into RPAS to construct them.

## **Reference to offsite trees to act as effective screen**

Not addressed by arborist or agent so concerns still remain.

## **Woodland TPO designation**

The revised submission from the arborists seek to address a number of points of objection and particular attention is drawn to the woodland designation, noting it should not remain so as that the garden will become actual woodland eventually. The arborist quotes Government Guidance 'it is unlikely to be appropriate to use the woodland classification in gardens'. I have made study of the TPO, served in 2004 and confirmed without modifications. It protects numerous individual trees across the wider property and the woodland. At the time of confirmation property owners would have opportunity to make representations and challenge of the TPO and potentially seek modification. This does not appear to have happened, or if so the challenge was unsuccessful as evidenced by the unmodified order.

The extract of the Guidance is noted however it is only guidance and every case should be judged by the Local Authority on its merits. High Court case Palm Developments v Secretary State confirmed the requirement of a woodland order to apply to future trees, confirming the need for tree succession to be secured and that the order would not achieve its purpose if it only protected those trees present at the serving of the order. This ruling has not been appealed.

## **Debris fall and apprehension of harm**

Concerns continue as before, the seasonal debris fall from the immediately adjacent, and strongly growing trees will have high potential to engender an immediate, and increasing poor relationship between any new occupier and the important tree group.

This is likely to lead to regular requests to prune or fell, which will be judged on the merits at that point, if an appeal followed. With a planning consent in place there would be a necessary acceptance for a high level of risk control in respect of persons and property under the fall path of large branches or whole tree failure.

## **Conclusion**

Whilst some slight easement of concern of direct root damage is acceded my principal points of concern regarding impact on the woodland designation, use of offsite trees as screen, fear of harm to new occupiers and seasonal debris fall issues still remain therefore I continue my **objection as before on arboricultural merit.**

- **SHDC Landscape Officer** - The proposed development is located within the large garden associated with Fairhaven (appreciating the land ownerships are different). The valley slope above North Sands beach has a sylvan character, and is typically recognised as having fewer, generally large properties, in spacious garden plots; it is of a low density and creates an attractive, and visually distinctive, residential part of Salcombe. The application site is constrained by its location within the South Devon Area of Outstanding Natural Beauty, which is the highest level of landscape protection and is given great weight in any planning decisions.

The plot is also the subject of Tree Preservation Order 681 – W1 -Woodland which protects a significant proportion of the overall plot and adjacent gardens; and TPO 86 – A1 – Area which includes a broader area of the valley slopes.

The site has been the subject of a number of planning applications and subsequent dismissed Appeals (most recent APP/K1128/A/13/2208438; 2014.02.03). The main issue being the effect of the proposal on the character and appearance of the locality. The principal reasons for refusal have been as a result of - adverse, harmful impacts arising from the scale and design within a policy area recognised for its low density housing; with large dwellings sitting freely as part of large garden plots. Officers have consistently advised that development of a residential unit in the garden would potentially conflict with this important characteristic. This is further demonstrated through assessment of the character and appearance, where the substantial spacing between properties is an inherent and attractive attribute and the sense of very low density needs protecting.

In noting the protected landscape, Development Plan policies are also considered, both current and emerging, and with reference to the Salcombe Neighbourhood Plan (at Reg 16 stage – re-advertised following amendments which align the settlement boundary with the Joint Local Plan). Key landscape policies seek to conserve the landscape character and visual amenity, and retain important trees.

The current proposal has been the subject of pre-application advice, with the additional process of seeking comment from the regional Design Panel. These comments are noted and the considerable work of the architect in seeking to design a dwelling that overcomes the significant constraints of the site is acknowledged. The design evolution has resulted in a submission that attempts to minimise visual intrusion and retain the inherent character of the developed valley side, whilst maintaining a presence with architectural merit. However, officers remain of the view that developing the large proposed dwelling in the garden plot will erode the recognised and important character of the locality and could not be supported.

#### Proposed single dwelling

The proposed development consists of a number of cascading built elements, embracing the sloping site with partially subterranean and cantilevered rooms and terraces, linked by covered walkways. Rooves are flat and finished with green or engineered surfaces, some partially covered with solar arrays.

The higher sloping garden that falls within the TPO has also been utilised for additional solar arrays. The garden has been subject to more regular maintenance and a steady decline in natural regeneration associate with the woodland. The land to the west has a more sylvan character, with a number of mature specimen trees that constrain the site along its boundary. These trees contribute significantly to the overall character of the valley slope.

The overall scheme has been consider within the submitted LVIA (Red bay design; June 2018). The LVIA is comprehensive and takes a reasoned approach, acknowledging the high sensitivity of the AONB and the recognised character and landscape value. Whilst officers broadly concur with the approach, there is a difference of opinion over the degree of impact and harm which would result from the proposal, in particular where this conflicts with the low density characteristics which policy seeks to retain, and noted within Appeal decisions.

In conclusion the scheme has been well considered when compared to previous designs in the context of its setting. However, the position remains that this development would result in the loss of important and characteristic large garden space, within a low density area of Salcombe, including future pressure on the management of adjacent trees. This is a location recognised for its natural scenic beauty, within the South Devon AONB and how controlled development can offer distinctive character to urban areas within it. On this basis, the proposal fails to conserve the landscape character and visual amenity, and is therefore contrary to policy, both current and emerging.

#### **Recommendation**

- An objection is raised.

## **Representations:**

46 letters of objection raising the following material considerations

- Precedent
- Consequent loss of the low density wooded character of this area.
- overbearing development
- impact to tpo
- impact upon personal right of way
- no need for additional housing
- impact upon flora and fauna
- noise and light pollution
- issues related to drainage and sewage capacity
- contrary to neighbourhood plan Env1, Env6, Env7, T2, H3
- this is a listed Woodland
- impact on special character of Sandhills
- impact on unspoilt North Sands Valley
- locally important views impacted
- impact to AONB
- Breach of planning policy
- obtrusive to the occupants of St Elmo Lodge and Court who will experience reduced natural vistas
- Half the site is designated Woodland with a Tree Preservation Order (ref TPO681). These trees are protected
- Impact to privacy
- Appeals reasons for dismissal were compellingly justified, and that all of those reasons still apply when assessing the current application
- conflicts with ; Saved Policy KP11 from the South Hams Local Plan , Policy CS9 from the Councils Core Strategy , Policy DP2 Policies DPD
- The site of the proposed development is covered by Woodland Order W 1

## **Relevant Planning History**

41/0542/81, 41/0543/81, 41/0544/81 – changes to flats in Fairhaven – all approved

41/1818/03/F – garage at West Fairhaven – approved

The land in question:

41/0959/86 – dwelling and garage – refused and dismissed at appeal

41/1596/94 – dwelling and garage – refused reason for refusal – The proposed dwelling would be harmful to the appearance and character of the area which is situated within an Area of Outstanding Natural Beauty and would increase the density of development contrary to the provisions of the Local Plan. If permitted, the dwelling would create a precedent for similar development on other sides within the Local Plan Policy Area which would cumulatively erode the special character of this area.

41/2487/11/F – erection of single dwelling refused 2nd April 2012 – Reason - The proposed dwelling would be harmful to the character of the area and appearance of the landscape which is designated an Area of Outstanding Natural Beauty. The proposed built development would increase the density of development harmfully altering the mature gardens and low density that characterise the area contrary to saved Policy KP11 of the South Hams Local Plan and CO3 of the County Structure Plan, CS9 of the Core Strategy and DP2 of the Development Policies DPD and no other material considerations indicate otherwise.

41/0888/13/F Resubmission of planning application 41/2487/11/F for the erection of single dwelling.  
Refusal

The proposed dwelling would be harmful to the character of the area and appearance of the landscape which is designated an Area of Outstanding Natural Beauty. The proposed built development would increase the density of development harmfully altering the mature gardens and

low density that characterise the area contrary to saved Policy KP11 of the South Hams Local Plan and CS9 of the Core Strategy and DP2 of the Development Policies DPD and no other material considerations indicate otherwise.

## ANALYSIS

### **Principle of Development/Sustainability:**

The previously refused applications in 2011 and 2013 referred to Saved Policy KP11 of the 1996 Local Plan which seeks to protect the environment in Salcombe by preventing development 'which would alter the character of the low density development and mature gardens in the areas shown as Policy Areas 2 and 3 on Proposals Map Inset K3'this site falls within Policy Area 2 identified

Since 2013, County Structure Plan policies, although saved, continue to be weakened by developments such as the NPPF. South Hams District Council can demonstrate a 5 year housing land supply meaning the tilted balance at Paragraph 11 of the National Planning Policy Framework is not triggered, but weight is attached to supplying new housing land in a sustainable location but this is balanced against the NPPF compliant policies of the LDF such as DP2 that protects special landscapes such as the AONB and emerging Joint Local Plan Policies. Whilst this development will go some way to providing local housing, this single unit of large proportions goes only a limited way in tackling local need and rather. Since 2013, the emerging Joint Local Plan is considered to hold increased weight depending on the nature of proposed main modifications

The importance of the woodland and character policies set out in the old Local Plan are not ignored and it is noted that this is carried over to the emerging Salcombe Neighbourhood Plan which is currently at Reg 16 stage, Policy SALC Env 7 permits development where such development would not detrimentally impact on the character of the existing low density development, mature gardens and trees in these areas (the site falls in density policy area A). The NPPF states quite clearly that the character of the AONB should be protected by saying at paragraph 172 '*Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues*'. It is not considered that the NPPF has significantly diluted the older Local Plan policies or the status of the AONB.

Much of the 2012 and 2013 considerations within their respective applications of the local character is still applicable. In protecting this area, Policy KP11 of the South Hams Local Plan describes the character of the area as 'low density development and mature gardens'. This analysis dates from the 1990s but still is an accurate portrayal of area and as stated before, the emerging Salcombe NDP seeks to carry this forward (Policy SALC Env7). The hill or valley side is, like most of Salcombe, a pleasant collection of dwellings set overlooking a particularly attractive estuary. The prevailing built character is one of large detached units in spacious gardens, mostly finished in render with plenty of balconies and windows facing the seaward views. The prevailing landscape character is one of a steep valley side with a diverse range of native and ornamental planting. It is this leafy appearance, in part acknowledged by the woodland designation in the old Local Plan and the emerging neighbourhood plan, that sets the defining characteristic of the area and makes it such a special place.

The current proposal has been the subject of pre-application advice, with the additional process of seeking comment from the regional Design Panel. These comments are noted and the considerable work of the architect in seeking to design a dwelling that overcomes the significant constraints of the site is acknowledged. While authorities should have regard to recommendations made by design review panels (NPPF paragraph 129), it's for the determining authority to balance the recommendation against its local policies and overarching national policy. Officers remain of the view that the principle of development in this location is unacceptable by virtue of the low density character of this portion of Salcombe and the impacts development will have on the woodland and this low density character. Within the prior appeal decision (APP/K1128/A 13/2208438) the inspector acknowledged that '*the substantial spacing between properties is an inherent and attractive attribute*

*of this part of the south west facing slope. The sense of a very low density area with large mature gardens prevailing need to be protected'* and then goes on to acknowledge *'to my mind this immediate swathe of Sandhills Road is an identifiable attractive low density entirety which justifies assessment and protection in its own right'*

The design evolution has resulted in a submission that attempts to minimise visual intrusion and try to retain the inherent character of the developed valley side, whilst maintaining a presence with architectural merit. The proposals are supported by a comprehensive LVIA which acknowledges the high sensitivity of the AONB and the recognised character and landscape value, but it is also clear that the sites character and appearance, specifically the substantial spacing between properties, is an inherent and attractive attribute to the landscape character and it's this sense of very low density that needs protecting. The LVIA rightly points out that the trees and vegetation within the site and surrounding the residential plots give the slope a well-wooded appearance. It goes on to acknowledge that further development and the cumulative effect of small scale changes in this landscape have been identified as having the potential to affect the character of the area. The analysis seeks to cover closer and further reaching views, most impact will be from closer viewpoints, there is a reliance on vegetation screening in obscuring the closer and longer reaching views but impact may manifest itself during winter months, particularly during construction

Officers consider that the proposed development will change the character of the site and its setting as a consequence of its form and scale; what is currently an undeveloped garden will be affected by the introduction of new dwelling, and this will therefore change its character and visual amenity. The character is repeatedly recognised as being low density through prior Local Plan Policies, prior decisions and appeals and this is further supported through policy, including the emerging Neighbourhood Plan (Policy SALC Env 7)

Put simply, any visible intrusion by built development or loss of vegetation is likely harm the characteristics of North Sands and Sandhills. Although the design in its own right has had considerable input and evolution from the Design Review Panel, the development still amounts to a large dwelling within an undeveloped section of land which contributes to the low density character of North Sands and Sandhills. This proposal, even after it has been reduced and amended from prior refusals, remains a substantial building in an otherwise wooded site which is also the subject of a Tree Preservation Order.

National Planning Policy Framework paragraph's 170 and 175 concern the protection of woodland, paragraph 175 ( c ) specifically states that *'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists'*.

Policy DP5 states that *Development likely to have an adverse effect on the nature conservation or geological interest within Strategic Nature Areas, National Nature Reserves, County Wildlife Sites, County Geological Sites, Ancient Woodland or sites/features identified as having similar substantive interest, including veteran trees, will not be permitted, unless the benefits of the development clearly outweigh the identified biodiversity or geological value of the site/feature.*

Officers consider that development in this location could place pressure on the requirement for these trees to be pruned or felled due to the presence of the dwelling within this tree grouping and it is considered that the development is therefore contrary to NPPF paragraphs 170 and 175 as there is no wholly exceptional reason for development of this nature in this location, no suitable compensation strategy exists and the benefits of a dwelling do not outweigh the impacts to the woodland setting

It is concluded that the proposed new dwelling will harmfully alter the character of North Sands and the AONB landscape by introducing development that erodes the low built density character and wooded appearance of the area. The measures and justifications for the development, for example the additional planting and building reduction, are not considered to overcome these substantial concerns.



The need for sustainable development and the supply of local housing is not considered to be influential enough to override these objections. It is acknowledged that the older saved Local Plan policies referred to in prior determinations such as KP11, continue to reduce in relevance over time as new policies within the JLP emerge, but that Development Plan policies such as DP2, DP5 of the Development Policies DPD and Emerging JLP policies DEV20, DEV24 DEV27 and DEV30 remain strident in their protection of special landscapes such as this and substantiate refusal.

### **Neighbour Amenity:**

The development is proposed adjacent to West Fairhaven, a property subdivided into flats. This building sits slightly higher than the application site and the proposed dwelling with its two storey cantilevered design is not considered to lead to an overbearing impact upon the residents of these flats.

Privacy impacts are not considered to be demonstrably harmful, the primary outlook from potential occupiers of the proposal will be directed seaward, side facing views will be limited due to separation distance (approximately 16m) and the intervening features such as garaging and hard landscaping features.

Properties to the rear are significantly higher and therefore present no amenity concerns

The nearest property to the west is 33m meters away and separated by dense hedgerow and tree features, impacts to amenity resulting from the proposal are considered to be low

### **Highways/Access:**

Advice within the DCC's standing advice states that private drives, such as the access to this site leading off Sandhill's Road, may serve up to three dwellings provided there is adequate provision for parking and turning private vehicles including vehicles of up to 3.5 tonnes maximum laden weight. If more than three dwellings are served off a private drive problems are likely to be created for future residents, therefore, private drives serving more than 3 dwellings are often not acceptable. This is already an existing situation as West Fairhaven contains more than 3 residential units itself. Whilst the building was subdivided from a house, thereby creating a situation where more than 3 residential units use a private drive, from a review of the planning history, this appeared to have been done in a piecemeal fashion in the late 1980s, which pre dates current standing advice. Officers raised concern process that the provision of a further dwelling would increase movement and use of this drive and access as a result of the proposal and later sought advice from DCC highways officers.

In discussion with DCC highways officers and through their assessment it was found that the existing access visibility is 17m 'y' distance north west to the nearside of the road x 2.4m 'x' distance x 5m 'y' distance south west to the nearside of the road x 1.05m height. Noting the speeds are around 25mph 85th percentile DCC highway officers would recommend that a splay of 33m south west x 2.4m x 25m north-west x 750mm height is sought. Currently the proposals would likely constitute an increase in traffic use of the substandard access as a dwelling would likely generate around six two way vehicle trips per day.

This issue could be overcome through an improvement to the access the frontage wall which would need to be pushed back and re-graded and in normal circumstances could have been sought through planning condition. However, officers consider this could have further impact upon the setting of the street scene as the existing wall forming the access is a characterful feature along Sandhills Road, but without detailed designs it is difficult to assess the impact of such a visibility splay and therefore information should be submitted as part of a determination as opposed to through a condition.

### **Planning Balance**

As South Hams District Council are now able to demonstrate a 5 year housing land supply, the tilted balance in favour of sustainable development (as set out in paragraph 11d of the revised NPPF) is not triggered for the purpose of deciding this application

In this case, the benefits of the proposals arising from the construction of the dwelling, social benefit of providing a single dwelling within an existing settlement do not outweigh the identified harm to the landscape, AONB, impact to the low density character of the area and impact upon protected trees and the application is therefore recommended for refusal

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

### **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

#### ***South Hams LDF Core Strategy***

CS1 Location of Development  
CS7 Design  
CS9 Landscape and Historic Environment  
CS10 Nature Conservation  
CS11 Climate Change

#### ***Development Policies DPD***

DP1 High Quality Design  
DP2 Landscape Character  
DP3 Residential Amenity  
DP4 Sustainable Construction  
DP5 Conservation and Wildlife  
DP7 Transport, Access & Parking

#### ***South Hams Local Plan (please delete as necessary)***

SHDC 1 Development Boundaries  
KP 11 Environment in Salcombe

### **Status of emerging JLP policies for decision makers**

The Plymouth & South West Devon Joint Local Plan has undergone a main modifications consultation (22 Oct – 03 Dec 2018) as part of the examination in public to determine the soundness of the plan. The joint councils are waiting to hear from the Planning Inspectorate (PINS) regarding the next steps. Until PINS provide an update, the JLP councils are unable to commit to a timetable for adoption.

The National Planning Policy Framework provides guidance on the weight that can be given to policies in emerging local plans in paragraph 48:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The JLP is nearing the conclusion of the examination process, and can be considered to be at an advanced stage of preparation.

Whilst technically all objections are unresolved until the Inspectors' issue their Final Report, some policies which did not receive objections at the Reg 19 stage could be given very significant weight. The nature and scope of objections made regarding each policy have been taken into account when determining the weight to be apportioned to each emerging policy.

The Council consider that all emerging policies are compliant with the NPPF. It should be noted that the JLP is being examined against the provisions of the 2012 NPPF, and therefore for the purposes of paragraph 48 of the NPPF policies should also be assessed for their conformity against the 2012 NPPF.

In considering the merits of this proposal, case officer recommendations are informed by the weight that can be attributed to emerging JLP policies and adopted development plan policies, as well as the degree of conformity with the 2018 NPPF.

## **PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

SPT1 Delivering sustainable development  
DEV1 Protecting amenity and the environment  
DEV2 Air, water, soil, noise and land  
DEV10 Delivering high quality housing  
DEV20 Place shaping and the quality of the built environment  
DEV24 Landscape character  
DEV27 Nationally protected landscapes  
DEV28 Protecting and enhancing biodiversity and geological conservation  
DEV30 Trees, woodlands and hedgerows  
DEV31 Specific provisions relating to transport  
DEV34 Delivering low carbon development  
DEV35 Renewable and low carbon energy (including heat)

### **Neighbourhood Plan**

Following the Regulation 16 statutory consultation of the latest Plan organised by SHDC, the independent examination of the Salcombe Plan is now commenced. A decision in the near future is expected regarding issues such as the validity of the Plan in the context of national neighbourhood Planning legislation.

The policies proposed in the Neighbourhood Plan reflect the general thrust of advice contained within the NPPF and existing and emerging local policies assessed above in this committee report. The proposed development, being located within the existing development boundary, allows for development but only where it does not impact on low density character, the proposals would therefore be contrary to Policy SALC Env7 the NDP is not yet at an advanced enough stage to attribute significant weight to form a policy reference for this decision however.

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

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

**Name and signature: Adam Williams**

**Date: 18/03/2019**

**Chairman of Planning Committee - Cllr Steer**

Date cleared – 14/02/2019

Comments made – Dear Adam,  
Happy to delegate refusal for this application.  
Kind regards,  
Cllr Steer.

**Ward Member - Cllr Pearce**

Date cleared - 13/02/2019  
Comments made - Dear Adam  
I am happy to delegate refusal.  
Kind regards  
Judy

**Ward Member – Cllr Wright**

Date cleared 13/02/2019  
Comments made -Dear Adam,  
I am happy to authorise delegated refusal.  
Kind regards,