



PLANNING REF: 3366/22/CLP

DESCRIPTION: Certificate of lawfulness for proposed construction of two outbuildings for incidental use (building 1 - home office/music studio& building 2 - boat storage, home gymnasium and art room).

ADDRESS: Onnalea Bantham TQ7 3AR.

Officer Name: Liz Payne

9th May 2023

LETTER OF CONCERN REGARDING INTERPRETATION OF Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015, FROM THE SOUTH HAMS SOCIETY

The South Hams Society interest

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

The Society's Concern

A recent planning decision for a Certificate of Lawfulness for the proposed construction of two outbuildings at Onnalea, Bantham has been brought to the attention of the South Hams Society.

It is apparent that the applicant has made two previous attempts to obtain planning permission.

Planning Application Ref: 2867/21/FUL was withdrawn and Planning Application Ref: 0293/22/FUL was refused on the 29th March 2022.

On the 26th September 2022, Mark Evans Planning Limited submitted a Certificate of Lawfulness application. We note that the agent has an experienced planning history and was previously employed by Swansea City Council, Neath Borough Council, South Hams District Council and Plymouth City Council in that capacity from 1990 through to 2014.

It is apparent that the agent has submitted a planning statement presented in such a way that he has provided a report laid out as though he was the officer making the decision.

The Society's opinion is that on reading that planning statement, the Case Officer should have checked the facts submitted and come to an independent conclusion.

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The following statement is declared in the planning statement.

2.2 *'The principal elevation of the property has been clearly designed to be the elevation with main entrance fronting onto the driveway at the east face of the property. The rear (west) elevation is thus facing the estuary'.*

The Case Officer should have examined this first point carefully as it is a key statement and what the agent wants the LPA agree to.

Our opinion is clear. **The statement in paragraph 2.2 is wrong.**

This is the guidance given by the UK government.

<https://www.gov.uk/government/publications/permitted-development-rights-for-householders-technical-guidance>

"Principal elevation" – in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the **main highway** serving the house (the main highway will be the one that sets the postcode for the house concerned). **It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.**

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation.

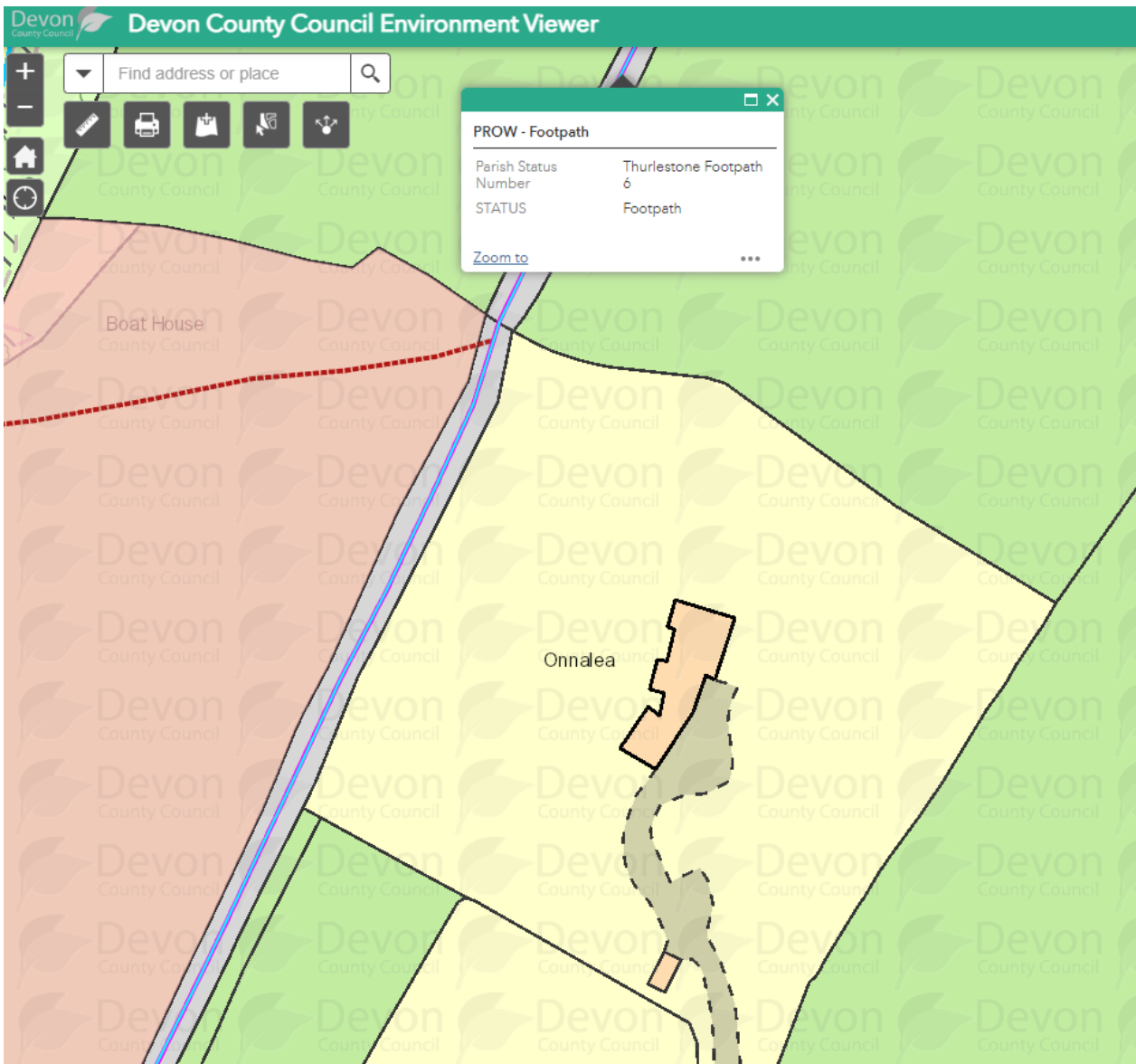
"Highway" – is a **public right of way** such as a public road, **public footpath and bridleway**. For the purposes of the Order it also includes unadopted streets or private ways.

The Society would suggest there are two key areas for officers to identify, a highway and architectural features including main bay windows.

The agent, Mark Evans is silent on the word 'Highway' in the statement. In other words he doesn't consider this issue and one may wonder why?

The Case Officer should have checked this by using the DCC Environment Viewer which records all highways.

The Society has checked this and includes the extracted record next. Onnalea fronts on to Public Right of Way 'Thurlestone Footpath Number 6'.



The next step is to identify which wall contains the key architectural features?

The Case Officer will have the advantage of visiting the building. The Society have viewed the recent sale brochure for Onnalea.

When looking at the following image, the Highway is to the left of the image. The leaflet states the following.

'A grassy bank slopes down to the lower lawn which offers gated access to the footpath leading into the village'.

This footpath is *'Thurlestone Footpath Number 6'*, the highway.



GARDENS AND GROUNDS

Onnalea is approached along a hedge lined private drive that opens to a large parking area immediately before reaching the house. The established wrap around grounds, extend to about 1.8 acres and are largely lawned with dry stone walled beds and a variety of shrubs. A grassy bank slopes down to the lower lawn which offers gated access to the footpath leading into the village. The views from the house and garden are simply magnificent.

A rare and wonderful opportunity to buy your 'forever home' in this beautiful and highly desired South Hams coastal village



ONNALEA

BANTHAM • NR KINGSBRIDGE
DEVON • TQ7 3AR

The Beach about $\frac{3}{4}$ mile • The Sloop Inn about $\frac{1}{3}$ mile
Kingsbridge about 5 miles • Salcombe about 7 miles
(Distances are approximate)

- Entrance hall
- Cloakroom
- Utility / rear hallway
- Living room
- Dining room
- Kitchen / breakfast room
- Garden room
- Ground floor bedroom and shower room
- Three first floor double bedrooms with dressing room and en suite bathroom to the main bedroom
- Additional bathroom
- Gated driveway
- Ample parking
- Garage
- Lawns and grounds totalling 1.8 acres
- EPC - Band G

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When looking at the image, it is obvious that;

- The rear elevation contains a flat roof.
- The rear of the dwelling faces a bank, not visible to the public (or anyone).
- The architectural features of stone walling / bay windows face the public highway and public views.
- That the single storey buildings are later additions to the main house.

The Society concludes that the principal elevation is the elevation that faces the Bantham Estuary.

The Society asks that if the local planning authority disagrees with the Society's opinion, can the LPA describe the features that leads the LPA to come to a different conclusion?

The legislation is clear. Class E part c states:

'Under Class E, the following limits and conditions apply:

E.1 Development is not permitted by Class E if –

(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse'

The Society's opinion is that the proposed buildings will be forward of the main wall forming the principle elevation **and is therefore not permitted development.**

The Society are of the opinion that section E.2 has been interpreted incorrectly by the agent and the Case Officer has failed to identify that error.

'E.2 In the case of any land within the curtilage of the dwellinghouse which is within -

(a) a World Heritage Site,

(b) a National Park,

(c) an area of outstanding natural beauty or

(d) the Broads,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

The effect of this limitation is to restrict the amount of permitted development for buildings, enclosures, pools and containers located more than 20 metres away from any wall of the house. The total area of ground which may be covered by buildings etc more than 20 metres from any wall of a house is 10 square metres.'

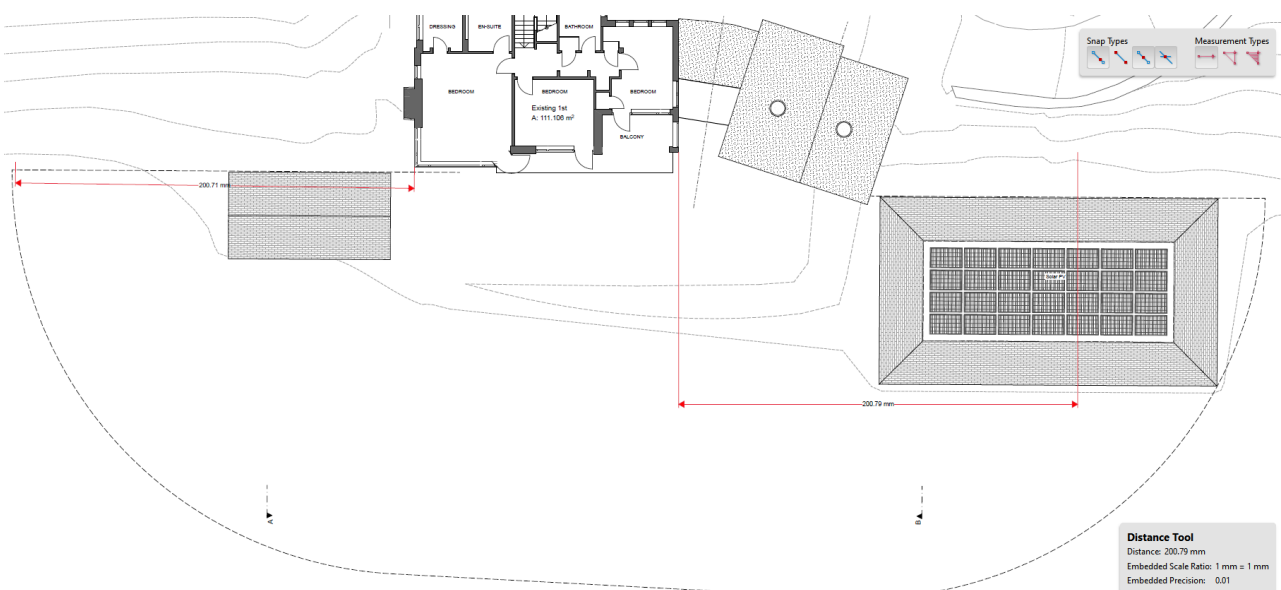
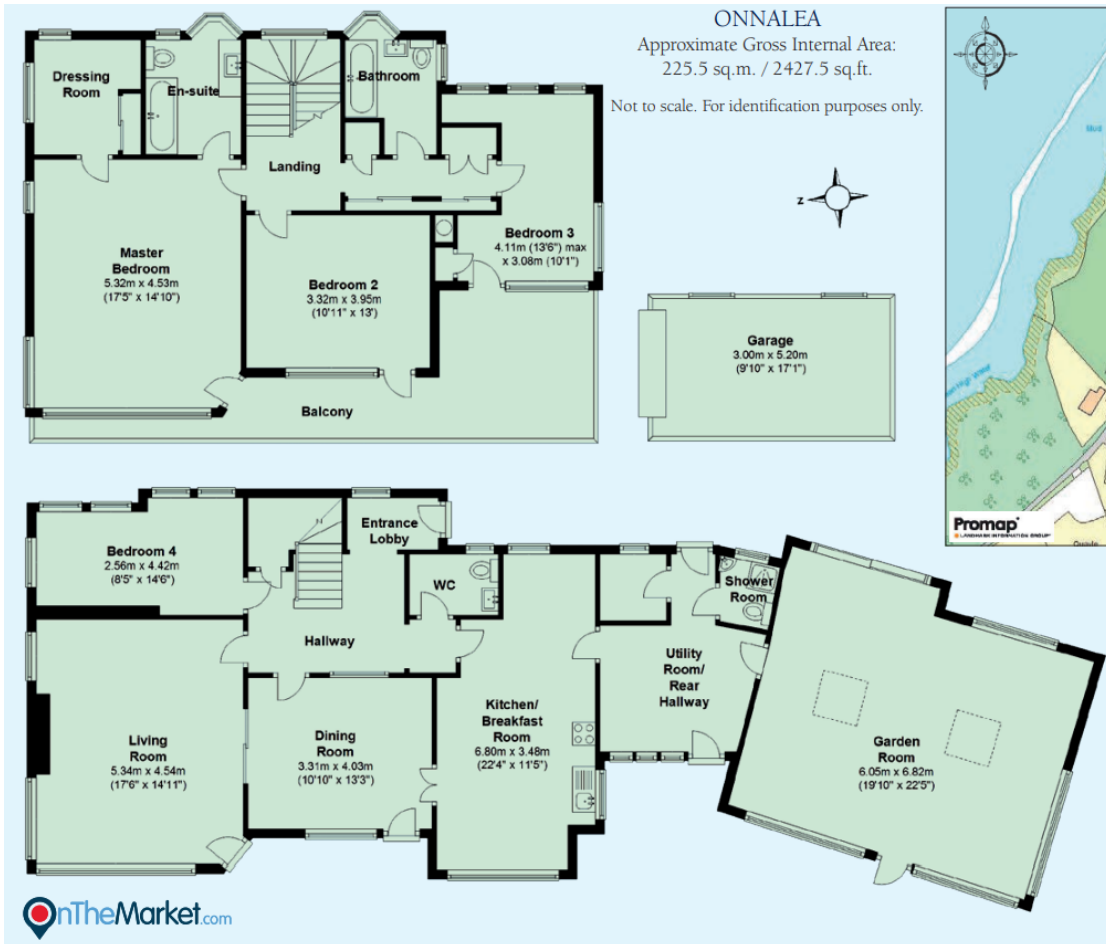
The Society includes a property plan as described for the recent sale of Onnalea, and a section of plan submitted showing the 20 metre boundary marker.

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It can be seen from the property details, the single storey add-ons are additions to the original house and do not appear to have had planning approval as an extension. The largest room is described as a Garden Room, which is an ancillary building.





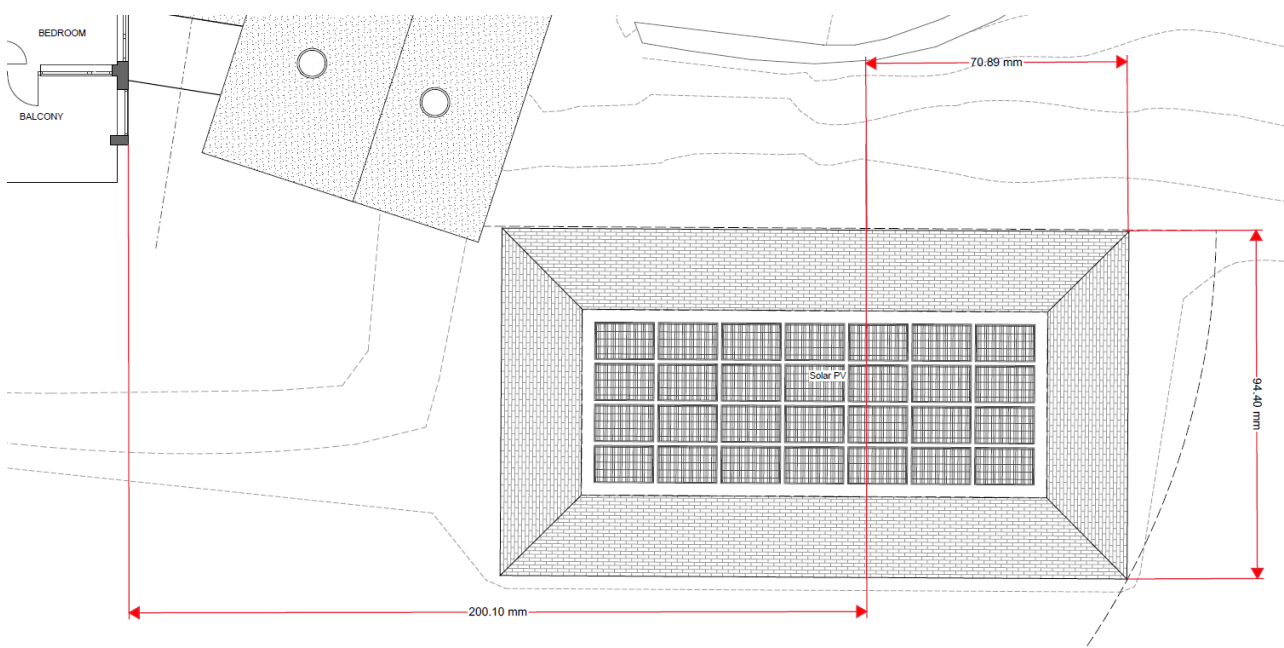
Garden rooms are considered 'incidental' to the main dwelling.

It is obvious that the agent has used the garden room and the other add-ons to extend the 20 metre perimeter measurement and as a result, a large area of the larger proposed building is located more than 20 metres away from the wall of the house.

This image shows the original house on the left with the garden room on the right.



Our measurements show that approximately 67m² of ground is covered more than 20 metres from the wall of the house and therefore fails to conform to the requirements of section E2.



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The Society attach the sales brochure. It is quite extraordinary that the owner wishes to obstruct the views from the garden room and the living room, the key selling points of the property.

As the Society identifies, we consider that the Case Officer has come to incorrect conclusions and been led by a planning agent who failed to record the highway fronting the property and intends to locate a considerable area of the larger proposed building more than 20 metres away from the wall of the house, justified by including previously constructed ancillary outbuildings.

The Society asks for a review of the concerns raised in this letter with an appropriate legal review.

For and on behalf of the South Hams Society.

Richard Howell,
Chairman.